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This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

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KENTUCKY ADMINISTRATIVE REGULATIONS are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

Title	Chapter	Regulation
806	KAR	50 : 155
Cabinet Department, Board or Agency	Bureau, Division or Major Function	Specific Area of Regulation

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Public Hearing Scheduled

DEPARTMENT OF INSURANCE

A public hearing will be held at 9:30 a.m. EST March 5, 1979, in the department hearing room of 151 Elkhorn Court, Frankfort, Kentucky.

806 KAR 17:050. [5 Ky.R. 635]
806 KAR 18:010. [5 Ky.R. 636]

Amended Regulations Now In Effect

DEPARTMENT OF JUSTICE Bureau of State Police As Amended

502 KAR 20:030. Trainees.

RELATES TO: KRS 329.030

PURSUANT TO: KRS 15A.160, 329.030

EFFECTIVE: January 3, 1979

NECESSITY AND FUNCTION: KRS 15A.160 and 329.030(4) provide that the Secretary of the Department of Justice may establish such rules and regulations for detection of deception trainees during their internship and insure that the trainee meets adequate professional standards. This regulation establishes the requirements for detection of deception trainees.

Section 1. Before a trainee may begin an intern program, he must:

- [(1)] Be a resident of Kentucky;
- [(1) [(2)]] Be licensed as a trainee detection of deception examiner in this state;
- [(2) [(3)]] File with the department the name and identifying information of his internship supervisor;
- [(3) [(4)]] File with the department a written statement from his supervisor agreeing to undertake the responsibilities for such training and agreeing to abide by regulations adopted by the department; and
- [(4) [(5)]] Obtain the department's permission to begin the intern program under the control of the proposed supervisor.

Section 2. The direct, personal supervision and control required by KRS 329.010(2) shall be deemed to have been met under the following conditions.

(1) For the first three (3) months of the intern program, the supervisor must be on the premises where the testing is being conducted by the trainee and is available for instructions and/or consultations with the trainee. At the end of each examination conducted by the trainee, the supervisor will review and critique the polygraph charts of the examination and must place the date of the review and his initials at the end of each chart.

(2) At the end of the first three (3) months of the intern program, and upon the recommendation of the supervisor, the department may allow the trainee to conduct examinations without the supervisor being on the premises at the time of the examination providing that the intern and supervisor meet on at least a weekly basis and the supervisor reviews and critiques the polygraph charts of every examination conducted by the trainee since the previous

review session. The supervisor must place the date of the review and his initials at the end of each chart.

(3) At the end of the first six (6) months of the intern program, and upon the recommendation of the supervisor, the department may allow the trainee and the supervisor to meet on at least a monthly basis providing the supervisor reviews and critiques the polygraph charts of any examination in which the trainee has given an inconclusive or undetermined opinion as to the examinee's truthfulness or deception, or any examination in which the trainee indicates he experienced some difficulty in reaching a decision as to the examinee's truthfulness or deception. In addition, the supervisor will select at random at least five (5) of the polygraph charts of examinations conducted by the trainee since the previous review session for review and critique. The supervisor must place the date of the review and his initials at the end of each chart reviewed. The period for this third phase of the intern program will be six (6) months.

Section 3. The trainee shall be required to properly conduct at least twenty-five (25) specific examinations during the intern program.

Section 4. The trainee and supervisor will make periodic reports to the department, on forms provided by the department, on the trainee's progress during the intern period.

Section 5. The department may request and require inspection and review of the internship program of any licensed examiner supervisor or trainee at any time and in the manner prescribed by the department.

Section 6. If at any time a conflict arises during an internship training program, either the trainee or the supervisor shall have the right to appeal in writing to the department for mediation of the conflict. The department, in its discretion, may call upon any resident licensed examiner, who is qualified to be a trainee supervisor, to assist in any hearings, reviews, or critiques in order to resolve the conflict and reach a satisfactory solution.

Section 7. It shall be the duty of both the trainee and the supervisor to report any infraction or violation of the rules which regulate an intern program to the department for appropriate action.

JOHN L. SMITH, Secretary

ADOPTED: November 3, 1978

RECEIVED BY LRC: December 21, 1978 at 10:15 a.m.

Model Procurement Code Regulations

KRS 45A.055 (1978 Acts Ch. 110) authorizes the Secretary of the Department of Finance to publish initial state purchasing regulations on an interim basis without regard to the provisions of KRS Chapter 13; provided, that final regulations shall be promulgated pursuant to the provisions of KRS Chapter 13 within 240 days.

The following are the interim regulations, which became effective January 1, 1979 and will expire on August 29, 1979.

DEPARTMENT OF FINANCE

200 KAR 5:300. Distribution of procurement activities and functions.

RELATES TO: Chapter 45A
PURSUANT TO: KRS 45A.035
EFFECTIVE: January 1, 1979
EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.040, relative to the distribution of the department's procurement activities and functions among the bureaus within the department.

Section 1. The procurement activities and functions vested in the Department of Finance by KRS Chapter 45A shall be distributed among the bureaus of administrative services, facilities management and public properties in the Department of Finance as provided herein:

(1) Bureau of Administrative Services. The Division of Purchases in the Bureau of Administrative Services shall be responsible for and perform the department's activities and functions in the areas of procurement of commodities, supplies and equipment and contractual services except as otherwise provided in this regulation.

(2) Bureau of Facilities Management. The Division of Contracting and Administration in the Bureau of Facilities Management shall be responsible for and perform the department's activities and functions in the areas of the procurement of construction services, equipment of all kinds and description required for or as a part of any construction project as defined in KRS 45A.030(4), and contractual services of architects, engineers and land surveyors.

(3) Bureau of Public Properties. The Bureau of Public Properties through its component organizational divisions as otherwise provided for and established shall be responsible for and perform the department's activities and functions in the areas of the acquisition by purchase, lease, condemnation or otherwise, except as provided in KRS Chapters 175, 176, 177 and 180, of all real property and interests in real property determined to be needed by the state, and for the disposition of all property, real, personal and mixed, not needed by the state, or which has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use.

Section 2. As used in all regulations adopted by the Department of Finance pursuant to the provisions of KRS Chapter 45A, the term "purchasing agency" shall mean the Division of Purchases, the Division of Contracting and Administration, the Bureau of Public Properties, or any agency to which purchasing authority has been delegated by the Department of Finance as provided by regulations adopted by the Department of Finance in accordance with the provisions of KRS Chapter 45A. References to "commissioner of the bureau" shall mean, according to the context, the commissioners of the bureaus of Administrative Services, Facilities Management, or Public Properties.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:301. Delegation of purchasing authority.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035(2)
EFFECTIVE: January 1, 1979
EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.035, relative to delegations of purchasing authority.

Section 1. Delegations of Purchasing Authority. (1) Standing delegations of purchasing authority may be made to the various cabinets, departments, institutions and other agencies of the state government by the Secretary of the Department of Finance upon recommendation of the commissioner of the bureaus of administrative services, facilities management and public properties as appropriate with regard to the procurement activity or function to be delegated. Such standing delegations shall be made on the basis of a written order signed by the Secretary of the Department of Finance setting forth with particularity the

kind or type of procurement activity or function delegated together with any limitations or restrictions on the exercise of such authority.

(2) All standing delegations of purchasing authority by the secretary shall remain in force according to the original terms thereof unless modified, or until rescinded by the secretary.

(3) Delegations of purchasing authority for agency's individual requirements, or to authorize procurement activities by an agency for pre-established and limited periods of time may be granted as appropriate with regard to the procurement activity or function by the commissioners of the bureaus of administrative services, facilities management or public properties by letter setting forth with particularity the kind or type of procurement activity or function authorized by the delegation and fixing the limits and restrictions on the exercise of the delegation and its duration. No such delegation of purchasing authority shall be extended or renewed except with the written approval of the Secretary of the Department of Finance.

Section 2. Agency Purchases. All state agencies shall be authorized to make purchases within the monetary limits and according to the procedures for small purchases as authorized by KRS 45A.100 and regulations adopted pursuant thereto without necessity for specific delegation of purchasing authority from the Department of Finance.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:302. Management and procedures manual.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.035(2).

Section 1. The purchasing policies and procedures of the Department of Finance published in the department's "Management and Procedures Manual" in effect on January 1, 1979, filed herein by reference and not specifically, or by necessary implication, superseded or repealed by procurement regulations adopted by the Department of Finance pursuant to the provisions of KRS Chapter 45A, together with any revisions as may from time to time hereafter be made in such policies and procedures not inconsistent with the provisions of KRS Chapter 45A and regulations of the department adopted pursuant thereto, are hereby adopted and incorporated by reference,

the same as if set forth at length, in and as a part of the procurement regulations of the Department of Finance adopted pursuant to KRS Chapter 45A.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:303. Written procurement determinations.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.025, relative to making procurement determinations.

Section 1. Every determination by a buyer or other employee, except secretarial, stenographic, or clerical employees, of the Bureaus of Administrative Services, Facilities Management or Public Properties engaged in or responsible for the performance of any procurement activity or function and constituting a final procurement action, or as otherwise provided by KRS Chapter 45A or regulations adopted pursuant thereto, shall be made in writing, based on written findings in support of said decision, and shall be signed by the employee making said determination.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:304. Application to be placed on vendor's list.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to

the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.035(2)(e) and 45A.110.

Section 1. Any person, firm or corporation desiring to receive written notice of procurement requirements of the Commonwealth may make application to have his name placed on a bidders' list for the types or kinds of procurement activities or functions he wishes to supply or provide. Upon request to either the Division of Purchases, for commodities, supplies, equipment, contractual services and related matters, or the Division of Contracting and Administration, for construction services and related activities and functions, an "Application to be placed on Vendors List" will be sent to any prospective bidder. Complete information as requested in the application must be submitted by the prospective bidder before his name will be placed on a bidders' list.

Section 2. (1) Upon receipt of a completed "Application to be placed on Vendors List," the qualifications of the prospective bidder will be verified in terms of:

(a) The ability and capacity to perform on a timely basis under contract for goods and services which he desires to bid on and furnish.

(b) Good character, integrity, reputation, and experience.

(c) Satisfactory performance in prior dealings with the Commonwealth of Kentucky and its agencies.

(d) Previous satisfactory compliance with the health rules and regulations of the Commonwealth of Kentucky.

(2) The purchasing agencies may refuse to list any prospective bidder not meeting the minimum qualifications set forth above. The prospective bidder has the burden of showing that he meets the qualifications for inclusion on the bidders' lists to which he seeks to gain entry. The prospective bidder will be promptly advised if his application is disapproved and the reason or reasons for disapproval. A prospective bidder may appeal the disapproval of his application to the Secretary of the Department of Finance. The appeal must be in writing and filed in the office of the secretary within two (2) calendar weeks after the date of the notice of the application; grounds for the appeal shall be stated with reasonable particularity and shall relate directly to reason or reasons for disapproval of the application. Any prospective bidder whose "Application to be placed on Vendors List" is disapproved may reapply after the expiration of six (6) months following the date of disapproval of his last application.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:305. Performance bonds; forms; payments.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.145

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to

publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.190 and 45A.195.

Section 1. (1) Every contractor to whom it is proposed to award a contract for construction services costing more than \$25,000 shall, prior to the award of such contract, give a bond or bonds to the Commonwealth of Kentucky as obligee, in form satisfactory to the purchasing agency, executed by a surety company authorized to do business in Kentucky, and in a penal sum equal to 100 percent of the contract price as it may be increased, the conditions of which shall bind the contractor, as principal, and the surety to the performance of the contract according to the terms, conditions and specifications of the contract, and in any changes or modifications thereto, and to the payment of all costs for labor, materials, equipment, supplies, taxes, and other proper charges and expenses incurred or to be incurred in the performance of said contract.

(2) Every contractor to whom it is proposed to award a contract for construction services costing \$25,000 or less, shall, prior to the award of such contract, give bond to the Commonwealth of Kentucky, as obligee, as provided in subsection (1) of this section, when required by the terms of an invitation for bids issued pursuant to KRS 45A.080, or an advertisement and solicitation for proposals for competitive negotiations pursuant to KRS 45A.085 and 45A.090.

Section 2. The provisions of Section 1 notwithstanding, every contractor to whom it is proposed to award a contract for the purchase of commodities, supplies or equipment or services by the Commonwealth of Kentucky or any state agency shall, when required by the terms of an invitation for bids, or solicitation or request for proposals, give bond to the Commonwealth of Kentucky, as obligee with surety satisfactory to the purchasing agency, in a penal amount, not to exceed 100 percent of the contract price, to be determined by the purchasing agency as sufficient to assure faithful performance of the contract by the contractor according to its terms.

Section 3. A contract shall not be awarded to any contractor who fails or refuses to give bond to the Commonwealth when required as provided by KRS 45A.190 and this regulation.

Section 4. A contractor may be declared in default of his contract with the Commonwealth of Kentucky, and his bond forfeited, when it is determined by the purchasing official that the contractor is in breach of the terms and conditions of the contract, including, in contracts for construction services, failure to make timely payment of bills for labor, materials and supplies as evidenced by liens filed against the construction fund by laborers and suppliers pursuant to KRS 376.195 to 376.260, or by letters of indebtedness filed with the purchasing agency evidencing that such bills are due and have not been paid by the contractor.

Section 5. (1) The form of performance and payment bond required to be given by contractors pursuant to Section 1, including the terms and conditions thereof, together with any revisions as may from time to time be made in such bond, shall be published in Department of Finance

"Management and Procedures Manual," filed by reference in 200 KAR 5:302. Such form of bond shall be applicable to, and included in all contracts for construction services when required by KRS 45A.190 and this regulation; provided, however, that such bond form may be modified, or different terms substituted or other terms added, when, in connection with a particular procurement, it is determined in writing by the purchasing official that such modification, substitution or addition of terms is reasonably required for the procurement in the best interest of the Commonwealth of Kentucky.

(2) The form of bond required to secure the performance of all other contracts for procurement shall be the standard form of performance or payment bond such as is usually and customarily written and issued by surety companies authorized to do business in Kentucky, together with such additional terms as may be required by the purchasing agency and agreed to by the surety.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:306. Competitive sealed bidding.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035, 45A.080

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.080.

Section 1. All contracts for construction exceeding an estimated cost of \$5,000, and \$1,000 for all other purchases, shall be awarded upon the basis of competitive sealed bids unless it is determined in writing that this method is not practicable and that the procurement may, in the best interests of the Commonwealth, more practically be obtained through competitive negotiations.

Section 2. The purchasing agencies shall cause public notice of invitations for bids for furnishing procurement requirements of the Commonwealth and its agencies through newspaper advertisement in the manner set forth in KRS 45A.080(3) and shall solicit bids from interested persons listed on the bidders' lists for particular requirements by sending invitations for bids to at least ten (10) persons listed in such bidders' lists. If there are not ten (10) persons listed on a particular bidders' list, invitations shall be sent to all persons listed on such list.

Section 3. Bidders shall complete, execute and submit their bids in strict compliance with the instructions contained in the invitation for bids. Bid forms shall be provided

by the purchasing agencies and a bidder responding to an invitation for bids shall use only the bid form or form of proposal furnished by the purchasing agency in submitting his bids.

Section 4. Bidders shall submit their bids at the place and at, or prior to the date and hour set in the invitation for bids. Bids received after the hour set for opening bids are late bids and shall be so marked. A late bid shall not be considered for an award unless no other bid is received in response to an invitation for bids. The late bid, together with the envelope in which the bid was submitted bearing the stamped date and hour of receipt of the bid, and a note, signed by the buyer, indicating whether or not the bid was considered for an award shall be retained in the file pertaining to the invitation for bids to which the late bid relates.

Section 5. All bids, and any modifications to bids previously filed, received prior to the date and hour fixed for opening bids shall be kept secure and unopened. Envelopes containing bids but not marked to indicate that they contain a bid and listing the invitation for bids number and the date and hour of opening bids for that invitation may be opened for the purpose of identification of the contents of the envelope and will be marked and resealed.

Section 6. The buyer or other employee of the purchasing agency designated to open the bids shall determine when the time set for opening bids has arrived and shall so declare the time to those present for the bid opening. He shall then and there personally, in the presence of the bidders or their representatives and anyone else who may wish to attend the bid opening, open all bids received as of that date and hour; when practical, the names of the bidders and the amounts of their bids may be read aloud to the persons present. Except where, due to the nature or complexity of an invitation for bids, it may be deemed impractical, a bid tabulation summary sheet shall be prepared for each invitation for bids recording the name of each bidder, a description of the supplies or services bid and the amounts of the bids received. The bid tabulation summary sheet shall be permanently retained in the file pertaining to that invitation for bids and shall be available for public inspection. Inspection of bids by interested persons shall not be permitted or authorized during the formal bid opening process.

Section 7. The bids shall be examined by the buyer responsible for the procurement for any clerical or technical errors, reviewed for technical compliance with the terms of the invitation for bids, and the supplies or services bid evaluated for conformity with the specifications contained in the invitation for bids. Every bidder shall, when requested by the purchasing official responsible for the particular procurement, clarify or explain, in writing, any matter contained in his bid about which the purchasing officer may have question or believes in good faith needs to be clarified and explained. The bid of any bidder who fails or refuses, within a reasonable time to give a written clarification or explanation of his bid, or any part thereof, when requested to do so by the purchasing officer, shall not be considered further for an award on the basis of that invitation for bids. The written clarification or explanation of a bid, or a part of a bid, shall be incorporated in and become a part of any contract awarded on the basis of that bid. In due course, and after a reasonable bid evaluation

period, the contract shall be awarded to the responsive and responsible bidder whose bid is either the lowest bid price or the lowest evaluated bid price, whichever is determined by the purchasing official to be in the best interests of the Commonwealth or as designated in the invitation for bids as the basis for award of the contract. If, after evaluation of the bids, including consideration of any clarifying or explanatory information submitted by the bidders, it is determined by the purchasing officer that no satisfactory bid has been received, all bids may be rejected and, in the discretion of the purchasing officer, the invitation for bids cancelled, new bids invited on the basis of the same or revised specifications, or competitive negotiations undertaken for the procurement. The basis for the rejection of all bids and subsequent action taken or to be taken with respect to the invitation for bids shall be recorded in writing and filed in the invitation for bids file relating to the particular procurement.

Section 8. (1) The right to reject any and all bids and to waive technicalities and minor irregularities in bids shall be maintained and preserved in the case of all invitations for bids issued by purchasing agencies within the Department of Finance or pursuant to delegations of purchasing authority by the Department of Finance.

(2) Grounds for the rejection of bids include but shall not be limited to:

(a) Failure of a bid to conform to the essential requirements of an invitation for bids.

(b) Any bid which does not conform to the specifications contained or referenced in any invitation for bids shall be rejected unless the invitation authorized the submission of alternate bids and the items offered as alternatives meet the requirements specified in the invitation.

(c) Any bid which fails to conform to a delivery schedule established in an invitation for bids.

(d) A bid imposing conditions which would modify the terms and conditions of the invitation for bids, or limit the bidder's liability to the state on the contract awarded on the basis of such invitation for bids.

(e) Any bid determined by the purchasing officer in writing to be unreasonable as to price.

(f) Bids received from bidders determined to be not responsible bidders.

(g) Failure to furnish a bid guarantee when required by an invitation for bids.

(3) Technicalities or minor irregularities in bids which may be waived when the purchasing official determines that it will be in the Commonwealth's best interest to do so, are mere matters of form not affecting the material substance of a bid or some immaterial deviation from or variation in the precise requirements of the invitation for bids and having no or a trivial or negligible effect on price, quality, quantity or delivery of supplies or performance of the services being procured, the correction or waiver of which will not affect the relative standing of, or be otherwise prejudicial to other bidders. The purchasing officer may either give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in his bid, or waive such deficiency where it is advantageous to the Commonwealth to do so.

Section 9. Where a mistake in a bid is claimed, and the evidence is clear and convincing that a material mistake was made in the bid and that due to such mistake, the bid submitted was not the bid intended, the bidder may be permitted to withdraw his bid. It shall be the duty of all con-

tractors bidding to carefully review and verify the accuracy of their bids both before submitting them and prior to execution of a contract. When a mistake in a bid is claimed after the award and execution of a contract, on the basis of such bid, the contractor shall be required to perform according to the terms and conditions of the contract unless it is established by clear and convincing evidence that a material mistake had been made in the original bid and that the contractor would sustain a financial loss if required to perform the contract according to its terms; a reduction or diminution in profit margin shall not be deemed a financial loss under this section. Where the evidence is clear and convincing that a material mistake has been made in a bid after the award of a contract, and the contractor will sustain a financial loss if required to perform the contract, the contract shall be rescinded and the contractor shall be ineligible to submit a bid upon readvertisement for the construction services.

Section 10. The following matters shall be applicable to all invitations for bids issued, bids submitted, and contracts awarded for the purchase of commodities, supplies and equipment pursuant to KRS 45A.080 and this regulation:

(1) Time discounts or cash discounts shall not be considered.

(2) Trade discounts: trade discounts should be deducted by the vendor in calculating the unit price quoted, unless otherwise indicated in the bid.

(3) Quantity discounts: quantity discounts should be included in the price of the item. When not included in the item price, the discount shall be considered only if the purchasing agency, or the agency for whose benefit the procurement has been undertaken, deems it to be in the Commonwealth's best interests. The unit price shown on the contract shall be the net price, less the discount, unless otherwise indicated in the bid.

(4) Unit prices: In case of a discrepancy in the extension of a price, the unit or item price shall govern over the total price of all items.

(5) Awards on an aggregate or individual item basis: An award may be made to the lowest aggregate bidder for all items, group of items, or on an individual item basis, whichever is deemed to be in the Commonwealth's best interest. The methods and bases of award of contract and of evaluation of bids shall be stated in the invitation for bids.

(6) Telegraphic bids: When the purchasing agency has invited bids or requested written quotations, telegraphic responses shall not be accepted.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:307. Competitively negotiated contracts.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035, 45A.090

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to

publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.085 and 45A.090.

Section 1. When, due to the complex nature or technical detail of a particular procurement, or when, in the opinion of the purchasing official, specifications cannot be fairly and objectively prepared so as to permit competition in the invitation for sealed bids, or for high technology electronic equipment available from a limited number of sources of supply and for which specifications cannot practically be prepared except by reference to the specifications of the equipment of a single source of supply, or when it is otherwise determined by the purchasing official that the invitation for competitive sealed bids is not practicable, or when it is determined by the purchasing official that the conditions described in KRS 45A.085(3) or 45A.090(1) exist, and except for procurements under KRS 45A.095 and 45A.100, and regulations adopted pursuant thereto, a contract may be awarded for a procurement by competitive negotiations as authorized by KRS 45A.085 and 45A.090 and this regulation. The purchasing official shall make a written determination of the reasons it is considered impractical to invite bids prior to initiating any other action leading toward the award of a contract on the basis of competitive negotiations.

Section 2. When it has been determined that it is not practical to invite competitive bids as provided in Section 1, except when such determination is based on the existence of the conditions mentioned in KRS 45A.085(3) or 45A.090(1), action to obtain a procurement by competitive negotiations shall commence by advertisement and solicitation for written proposals in the manner specified by KRS 45A.080(3) and regulations adopted pursuant thereto. The advertisement or solicitation for proposals for competitive negotiations shall state:

(1) That the purchasing agency proposes to enter into competitive negotiations with responsible offerors for a procurement;

(2) The date, hour and place that written proposals for the procurement shall be received;

(3) The type of procurement involved and a description of the supplies or services sought; provided, however, that detailed specifications need not be listed in newspaper advertisements, or solicitations for proposals sent to vendors listed on a bidder's list maintained by the purchasing agency if it is considered impractical by the purchasing official to do so, but potential offerors shall be informed by such advertisement or solicitation where such detailed specifications, if available for the particular procurement, may be obtained;

(4) The evaluation factors to be considered by the purchasing agency in the competitive negotiations in determining the proposal most advantageous to the Commonwealth, and the proposed method or methods of award of contract;

(5) Such other information as, in the opinion of the purchasing official, may be desirable or necessary to reasonably inform potential offerors about the requirements of the procurement or the limits or bounds of the competitive negotiations proposed to obtain the procurement.

Section 3. All written proposals received by the purchasing agency in response to advertisement or solicitation

for proposals for competitive negotiations shall be kept secure and unopened until the date and hour set for opening the proposals. Proposals for competitive negotiations not clearly marked as such on the envelope in which received may be opened for identification purposes, and shall be appropriately identified with reference to the particular procurement and resealed until the time for opening proposals.

Section 4. At the close of business on, or at the beginning of the next business day after the date fixed for receiving proposals for competitive negotiations, all proposals received as of the close of business on that date shall be transmitted to the purchasing official for the procurement for opening. Proposals for competitive negotiations shall not be subject to public inspection until negotiations between the purchasing agency and all offerors have been concluded and a contract awarded to the responsible offeror submitting the proposal determined in writing to be the most advantageous to the Commonwealth, price, and the evaluation factors set forth in the advertisement and solicitations for proposals considered.

Section 5. (1) The purchasing official shall examine each written proposal received for general conformity with the advertised terms of the procurement. If it has been provided in the advertisement or solicitation for proposals that an award may be made without written or oral discussions, the purchasing official may, upon the basis of the written proposals received, award the contract to the responsible offeror submitting the proposal determined in writing to be the most advantageous to the Commonwealth, price, and the published evaluation factors considered. If, after the proposals have been examined, it is determined that written and/or oral discussions should be had with the offerors, the purchasing official shall determine in writing, based on an individual review, those proposals received from responsible offerors that are preliminarily susceptible of being selected for award of a contract for the procurement. Each such offeror shall be contacted informally by the purchasing official and a meeting scheduled for discussion of the offeror's proposals. Discussions need not be conducted under the circumstances of or relative to the topics enumerated in KRS 45A.085(6)(a), (b) or (c).

(2) Discussions with offerors shall be held informally and may be conducted orally, in writing, or both orally and in writing, as determined by the purchasing official in writing to be the most advantageous to the Commonwealth. If, however, after discussions with all responsible offerors have concluded, or after examination of the written proposals initially submitted, it is determined that no acceptable proposal has been submitted, any or all proposals may be rejected and, in the discretion of the purchasing official, new proposals may be solicited as provided in this regulation on the basis of the same, or revised terms, or the procurement may be abandoned.

Section 6. The purchasing official shall prepare a written summary of all oral discussions in competitive negotiations setting forth the date or dates of discussions with all responsible offerors and the general substance of the discussions. Verbatim records of the discussion shall not be required.

Section 7. When it is determined in writing by the purchasing official that the conditions mentioned in either KRS 45A.085(3), or 45A.090(1), exist with respect to any particular procurement, competitive negotiations may be

undertaken to obtain the requirements of such procurement as provided by KRS 45A.085(3) or 45A.090(1), and according to the procedures set forth in Sections 3 to 7.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:308. Small purchase procedures.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.035(2)(c) and 45A.100.

Section 1. Small purchase procedures may be used by all agencies without prior approval by the Department of Finance where procurement for a total requirement is estimated not to exceed an aggregate amount of \$5,000 for construction services, and \$1,000 for all other categories of purchases. Procurement requirements shall not be parceled, split, divided or purchased over a period of time in order to meet the dollar limitations for use of small purchase procedures.

Section 2. Agencies shall informally obtain three (3) or more price quotations from qualified sources of supply for all small purchases exceeding \$1,500 for construction services and \$500 for all other purchases, except as otherwise delegated. The price quotations received, a tabulation of prices offered, and comments by the agency handling the small purchase concerning the basis selected for placing the order, shall be recorded in writing and shall be filed in a small purchase order file to be maintained by the agency. Small purchases may be made by agencies from any available source of supply, without first obtaining quotations, for construction services costing \$1,500 or less, and \$500 or less for all other purchases.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1979 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:309. Noncompetitive negotiations.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035, 45A.045

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to

publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.095.

Section 1. Procurement contracts may be awarded through noncompetitive negotiations only as provided in this regulation. Contracts which may be awarded on the basis of noncompetitive negotiations include, and shall be limited to the following:

(1) Contractual services for telephone service, electrical energy and other public utility services, and other contractual services provided within a defined geographic area pursuant to a franchise for such service awarded pursuant to law by a city, county or other political subdivision authorized to award such franchise; provided, however, that except for telephone and other public utility services, the invitation for bids or the award of a contract by competitive negotiations for other contractual services performed under a franchise awarded by a political subdivision shall not be precluded when it is determined by the purchasing official to be in the best interest of the Commonwealth; nor shall the award of a contract for the purchase or lease of a telephone system to serve the internal needs of state agencies or institutions by invitation for bids or on the basis of competitive negotiations be precluded under this subsection.

(2) Commodities, equipment and services available, in the discretion of the purchasing official, from a single source. Such items shall include, but not be limited to, patented equipment and copyrighted material, and equipment peripheral to other equipment already owned by the Commonwealth or any state agency determined by the purchasing officer to be incompatible to such other equipment without modification or adjustment in either the equipment already owned or the equipment to be acquired.

(3) Instructional materials available, in the discretion of the purchasing official, from a single source. A written determination setting forth need in relation to a particular instructional program, and justifying the procurement of the particular materials on a noncompetitive basis, shall be made by the purchasing official prior to the award of the contract.

(4) Special supplies or equipment required for laboratory or experimental studies. A written determination setting forth the need in relation to such studies, and justifying the procurement of such supplies or equipment on a noncompetitive basis shall be made by the purchasing official prior to the award of contract.

(5) Contracts or subscriptions for the purchase of published books, maps, periodicals, technical pamphlets, and except for those specially commissioned for use by an agency which shall be contracted for as provided by subsection (7) of this section, recordings, films and works of art for museum and public display.

(6) Commercial items purchased for resale to the general public through a resale outlet maintained by a state agency. Such items shall be purchased only from a wholesaler, manufacturer or producer of the item or items.

(7) Contracts for professional, technical, scientific, or artistic services. Except for contracts for architectural or engineering services negotiated in accordance with the provisions of KRS 45A.205, or agreements with multiple vendors of medical or health care and related services, and fixed rates of payment for such services as prescribed by state or federal law or regulations, and entered into for the benefit of persons who are wards of the Commonwealth,

or who are otherwise entitled pursuant to law to the provision of such services by the Commonwealth, all contracts for professional, technical, scientific, or artistic services by state agencies shall be made, awarded and entered into only as provided in KRS 45.530 to 45.545.

(8) Contracts for the purchase of commodities, supplies, equipment, and construction services that would ordinarily be purchased on a competitive basis when an emergency has been declared in the manner prescribed by KRS 45.400.

(9) Contracts or agreements for the purchase or sale of supplies, equipment or services between the Commonwealth and the Government of the United States, another state, a political subdivision of the Commonwealth, or non-profit organization organized under the laws of the Commonwealth, another state or the District of Columbia, or chartered under an Act of Congress, and lawfully doing business in the Commonwealth of Kentucky, and serving a public purpose of an essentially government, civic, educational or charitable nature.

(10) Contracts with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contracts executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor.

(11) Contracts for the purchase of real property, or interests in real property.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:310. Multiple contracts.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035, 45A.105
EFFECTIVE: January 1, 1979
EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.035(2)(b).

Section 1. Multiple contracts may be awarded on the basis of a single invitation for bids as after competitive negotiations when it is determined in writing by the purchasing official in advance of the invitation for bids or the advertisement and solicitation for proposals for competitive negotiations that due to the geographic distribution of the agencies requiring supplies of the kind or kinds to be sought through the procurement, the need for a variety of kinds and quality of supplies of the same general nature, or when it is otherwise determined that the award of multiple contracts may be in the Commonwealth's best interests, and its needs met at a reasonable cost. A determination, and notice to potential bidders and offerors, that multiple contracts may be awarded for any procurement shall not preclude the award of a single contract for

such procurement where it is determined by the purchasing official to be in the best interest of the Commonwealth, price and other factors considered.

Section 2. When it is determined in writing by the purchasing official after the evaluation of competitive bids, or the closing of competitive negotiations, that bids or offers substantially and materially responsive to terms of the procurement have been received for only a part or parts of the requirements of the procurement, and the bids or offers received for another part or parts of the procurement are not substantially and materially responsive to such terms, a contract or contracts may be awarded as to the part or parts of the procurement for which responsive bids or offers have been received, and the bids or offers determined to be nonresponsive may be rejected in the discretion of the purchasing official and new bids invited, or proposals for competitive negotiations for the procurement advertised and solicited, on the same or revised terms, conditions and specifications.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:311. Contract modifications.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.210(1)
EFFECTIVE: January 1, 1979
EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.210(1).

Section 1. The purchasing agencies within the Department of Finance, and any state agency to whom purchasing authority has been delegated by the Department of Finance, shall be authorized to provide by appropriate clauses to contracts for supplies or services of all types for changes and modifications to such contracts and providing for the method or methods of calculating the costs of any decrease, increase, or other change in the contract price resulting from such change or modification. In contracts for the purchase in fixed amounts of commodities, supplies and equipment, increases in quantities in excess of ten (10) percent of the original quantity, fixed by the contract shall not be permitted unless the invitation for bids or advertisement and solicitation for proposals for competitive negotiations for the procurement informed prospective bidders or offerors that an increase in quantities might be forthcoming, nor shall increases in unit prices be permitted in such contracts for increased quantities except as provided by a price escalation formula authorized by the invitation for bids or request for proposals for competitive negotiations.

Section 2. All changes or modifications to contracts for the purchase of commodities, supplies, equipment and construction services shall be effected by an advice of change in order to the contract which shall be supported by a written determination by the purchasing official documenting the reason and basis for the change or modification to the contract. A copy of the advice of change in order and the supporting documentation relative to any change or modification to a contract shall be filed and maintained in the contract file by the purchasing agency.

Section 3. Every contractor to whom a contract containing clauses authorizing changes or modifications to the contract shall be deemed, by acceptance of the contract, to have agreed to the changes or modifications of the contract as provided therein.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:312. Termination of contracts.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.210(2), (3)
EFFECTIVE: January 1, 1979
EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.210(2), (3).

Section 1. (1) Any contractor who is determined in writing by the purchasing official to be in breach of any of the terms and conditions of a contract with the Commonwealth of Kentucky held by such contractor, shall, in the discretion of the purchasing official, be declared in default and such contract may be terminated as a result of such default.

(2) A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to, failure to perform the contract according to its terms, conditions and specifications; failure to make delivery within the time specified or according to a delivery schedule fixed by the contract; late payment or nonpayment of bills for labor, materials, supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency; failure to diligently prosecute the work under a contract for construction services.

(3) The Commonwealth shall not be liable for any further payment to a contractor under a contract terminated for the contractor's default after the date of such default as determined by the purchasing official except for commodities, supplies, equipment or services delivered and accepted on or before the date of default and for which pay-

ment had not been made as of that date. The contractor, and/or his surety, if a performance or payment bond has been required under the contract, shall be jointly and severally liable to the Commonwealth for all loss, cost or damage sustained by the Commonwealth as a result of the contractor's default; provided, however, that a contractor's surety liability shall not exceed the final sum specified in the contractor's bond.

Section 2. The Commonwealth shall be authorized to terminate for its own convenience all contracts for the procurement of supplies and services when the purchasing official has determined that such termination will be in the Commonwealth's best interests. When it has been determined that a contract should be terminated for the convenience of the Commonwealth, the purchasing agency shall be authorized to negotiate a settlement with the contractor according to terms deemed just and equitable by the purchasing agency. Compensation to a contractor for lost profits on a contract terminated for convenience of the Commonwealth shall not exceed an amount proportionate to the sum that the contractor's total expected margin of profit on the contract bore to the contract price, based on the total out of pocket expense incurred by the contractor as of the date of termination of the contract. Whenever a contract is terminated for the convenience of the Commonwealth, the contractor shall have the burden of establishing the amount of compensation to which he believes himself to be entitled by the submission of complete and accurate cost data employed in submitting his bid or proposal for the contract, and evidence of expenses paid or incurred in performance of the contract from the date of award through the date of termination. Payment of the sum agreed to in settlement of a contract terminated for convenience of the Commonwealth shall be made from the same source of funds or account as the original contract.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:313. General and special conditions for bidding.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035
EFFECTIVE: January 1, 1979
EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.035(2)(e).

Section 1. The Division of Purchases, for commodity and other procurement functions within its jurisdiction, and the Division of Contracting and Administration, for construction and related services and items, shall adopt, and revise from time to time as may be necessary and con-

venient in the discretion of the directors of the divisions, with the approval of the Commissioners of the Bureaus of Administrative Services and Facilities Management, respectively, general conditions for bidding to the Commonwealth of Kentucky. The divisions shall also be authorized to promulgate and adopt in relation to any particular procurement, or class or type of procurement, special conditions, supplemental to and in extension of the general conditions of bidding. The general conditions of bidding, and any revisions thereto, adopted by both the Division of Purchases and the Division of Contracting and Administration shall be published in the Department of Finance "Policy and Procedure Manual," filed by reference in 200 KAR 5:302.

Section 2. The general conditions of bidding shall be applicable to, and incorporated by reference in all invitations for bids issued by the Division of Purchases, the Division of Contracting and Administration, or by any agency to which purchasing authority has been delegated pursuant to authorization contained in KRS Chapter 45A and these regulations.

Section 3. All vendors, firms, contractors and persons who submit a bid in response to an invitation for bids issued by the Department of Finance, or by any agency of the Commonwealth of Kentucky pursuant to a delegation of purchasing authority by the Department of Finance, shall be deemed to have agreed to comply with all terms, conditions, and specifications of such invitation for bids.

Section 4. The general conditions of bidding, or specific portions thereof, shall be applicable to all requests for proposals for competitive negotiations pursuant to KRS 45A.085 and 45A.090, in the discretion of the purchasing agencies; provided, however, the advertisement and solicitation for proposals for competitive negotiations shall inform prospective offerors that the request for proposals shall be subject to the general conditions or parts thereof, by specific reference to the particular parts or sections of the general conditions applicable to the particular procurement to be obtained by the competitive negotiations.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:314. General food and perishable items purchasing.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.035(2)(d).

Section 1. The conditions and procedures for the purchase of general food and perishable items and commercial items purchased for resale shall be established by written policy published in the Department of Finance "Management and Procedures Manual," filed by reference in 200 KAR 5:302, and revised from time to time as may be required in the opinion of the Director of the Division of Purchases and approved by the Secretary of the Department of Finance with the advice of the Commissioner of the Bureau of Administrative Services.

Section 2. Commercial items purchased for resale shall be exempt from competitive bidding.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:315. Disciplinary action for failure to perform.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.035(2)(b).

Section 1. Any bidder or contractor to the Commonwealth of Kentucky who, except for good cause shown, shall have committed, or failed to perform, as the context may require, one or more of the following acts or omissions, shall be liable to disciplinary action by the Department of Finance as set forth in Section 2. Specific grounds for disciplinary action include:

(1) Failure to post bid or performance bonds, or to provide alternate bid or performance guarantee in form acceptable to the purchasing agency in lieu of a bond, as required by an invitation for bids or a solicitation for proposals;

(2) Substitution of commodities without the prior written approval of the purchasing agency;

(3) Failure to comply with the terms and conditions of the invitation for bids or solicitation for proposals, or with the terms, conditions and specifications of a contract, including failure to complete performance of a contract within the time specified in the contract;

(4) Failure to replace inferior or defective materials, supplies or equipment immediately after notification by the purchasing agency or the agency to which such materials, supplies or equipment has been delivered;

(5) Failure by a bidder listed on a bidder's list to respond to three (3) (five (5) for construction service contracts) invitations for bids sent to such bidder;

(6) Refusal to accept a contract awarded pursuant to the terms of an invitation for bids, or following the close of competitive negotiations;

(7) Falsifying invoices, or making false representations to any state agency or state official, or untrue statements about, any payment under a contract, or to procure award of a contract, or to induce a modification in the price or the terms of a contract to the contractor's advantage;

(8) Collusion, or collaboration with another bidder or other bidders, in the submission of a bid or bids for the purpose of lessening or reducing competition;

(9) Falsifying information in the submission of an application for listing on a Department of Finance bidders' list.

(10) Failure to report, and to pay over to the Department of Revenue any Kentucky sales and/or use taxes as may be due in connection with a procurement contract as provided by law;

(11) Failure to comply with the prevailing wage law requirements of state or federal laws as may be applicable to any public works contract of the Commonwealth or any political subdivision or public authority.

Section 2. (1) Any contractor preliminarily determined to have done any act prohibited, or to have failed to do any act required by Section 1(1) to (6) shall, in the discretion of the commissioner of the bureau having jurisdiction over the particular procurements activity or function, be liable to be placed on probation, or suspended from bidding to the Commonwealth of Kentucky, or a combination of suspension from bidding and probation, for not more than twelve (12) months.

(2) Any contractor preliminarily determined to have done any act prohibited by Section 1(7), (8) and (9) shall be removed from the bidders' lists and shall be ineligible for reinstatement to such lists for a period not to exceed twenty-four (24) months following the date of removal. Any contractor removed from the bidders' lists under this section shall be eligible to apply for reinstatement as provided in 200 KAR 5:304, after the expiration of the removal period.

(3) Any contractor, or any subcontractor to a contractor, determined by the Department of Labor to have violated the prevailing wage requirements of KRS Chapter 337 shall be suspended from bidding to the Commonwealth of Kentucky, or to participate in a public works contract of the Commonwealth of Kentucky, effective on and after the date the Department of Finance receives notice from the Department of Labor that such contractor or subcontractor has been determined to have violated the prevailing wage law, and until such time as the Department of Labor has determined the contractor or subcontractor to be in compliance with the requirements of such law.

Section 3. Except for the grounds mentioned in Section 1 (5), (6) and (11) a preliminary written determination shall be made concerning the facts of any allegation or claim that a bidder or contractor has either committed an act prohibited, or failed to perform an act required, by Section 1 before any disciplinary action is taken against such contractor. Such preliminary determination shall be submitted to the Office of General Counsel, Department of Finance, for review prior to the administration of any disciplinary action as authorized by Section 2. Notice of disciplinary action shall be sent to the bidder or contractor at the address shown in the department's records by certified mail, return receipt requested.

Section 4. Bidders or contractors against whom disciplinary action has been taken under this regulation

may appeal the action of the Secretary to the Department of Finance. The appeal must be filed in the office of the secretary within ten (10) working days after the date of notice of the disciplinary action has been received by the bidder or contractor as shown by the certified mail receipt. The appeal must be filed in writing and must state facts showing cause why the disciplinary action should be set aside. An appeal constituting a general denial of the charges contained in the notice of disciplinary action, unless supported by specific facts rebutting such charges, shall be preemptorily dismissed. The appellant may request either a formal hearing before a hearing officer to be designated by the secretary to take proof and make findings and recommendations to the secretary, or an informal hearing to be conducted by the commissioner of the bureau having jurisdiction over the particular procurement activity or function, or his designee. A written report of the substance of the matters raised in such informal hearing shall be prepared and submitted to the secretary and recommending that the appeal be sustained or denied. The rules of evidence shall not apply in either formal or informal hearings conducted under this section and any matter considered pertinent to the issues of the hearing shall be admissible, subject only to the determination by the presiding officer as to the proper weight to be accorded all matters introduced at the hearing.

Section 5. No purchase of any kind shall be made by any state agency from a bidder or contractor who has been suspended or removed from the bidders' lists, except for those removed for the grounds stated in Section 1(8). All state agencies shall be promptly informed about bidders or contractors suspended or removed from the bidders' lists and shall immediately comply with this prohibition.

Section 6. The administration of disciplinary action against a bidder, potential bidder or contractor under this regulation shall not preclude the taking of other action by the Commonwealth, based on the same facts, as may be otherwise available, either at law or in equity, including, without limitation to the generality thereof, suits for damages or actions for specific performance.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

DEPARTMENT OF FINANCE

200 KAR 5:316. Works of art.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035

EFFECTIVE: January 1, 1979

EXPIRES: August 29, 1979

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish initial state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A) on an interim basis without regard to the provisions of KRS Chapter 13. This initial regulation implements the provisions of KRS 45A.050.

Section 1. Every state agency and institution, including institutions of higher learning, which maintains a museum shall be authorized to purchase or otherwise acquire from any source, and to sell, trade, or otherwise dispose of works of art and artifacts acquired for display in such museum, or which the agency is authorized to dispose of, according to terms determined to be fair and just, and will promote the purposes of the museum by the head of the agency or institution, or the governing board of an institution, or the curator of the museum or other officer or employee of the agency or institution to which such authority has been delegated by the agency or institution head or governing board, without necessity for approval of such acquisition or dispositions by the Department of Finance. The curator, or other employee of the agency or institution responsible for the operation of the museum shall prepare an inventory of all works of art and artifacts

belonging to the museum, which shall be filed with the Bureau of Public Properties, and shall maintain records of all acquisitions and disposition of works of art and artifacts of the museum, and shall file annually with the Bureau of Public Properties a revised inventory of such works of art and artifacts.

Section 2. Every state agency shall be authorized to purchase or otherwise acquire, for its own use, or for any statutorily authorized purpose of such agency, published books, maps, periodicals, and technical pamphlets, without necessity for approval by the Department of Finance as to such acquisition.

ROY STEVENS, Secretary

ADOPTED: December 29, 1978

RECEIVED BY LRC: December 29, 1978 at 1 p.m.

Proposed Amendments

SECRETARY OF THE CABINET Department of Personnel (Proposed Amendment)

101 KAR 1:080. Certification and selection

RELATES TO: KRS 18.170, 18.190, 18.210, 18.240

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 requires the Commissioner of Personnel to prepare and recommend to the Personnel Board rules which provide for the manner of completing appointments and promotions, including multiple and simultaneous certifications. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for establishment of eligible lists for appointment, and for consideration for appointment of persons whose scores are included in the three (3) highest scores on the exam. This rule is necessary to comply with these statutory requirements.

Section 1. Request for Certification of Eligibles. To fill a vacancy by selection of an eligible from a register established on the basis of an open-competitive examination, the appointing authority shall submit a request for certification to the commissioner upon a prescribed form. This requisition may be for one (1) or more positions in the same class, in the same locality, and shall indicate the number and identity of positions to be filled and the title of the class to which they have been allocated and specify all other pertinent information which the appointing authority and the commissioner deem necessary. The appointing authority shall make such request as far in advance as possible of the date the employee is to begin work.

Section 2. Certification of Eligibles. Upon receipt of a requisition, the commissioner shall certify and submit in writing to the appointing authority the names of available persons eligible for the appointment. If one (1) position is involved, he shall certify and submit from the register for that class the names of the persons whose scores are includ-

ed in the highest five (5) scores earned on the examination, providing the commissioner shall fix a reasonable maximum number of eligibles certified. If more than one (1) vacancy is involved, either in one (1) or more agencies, the commissioner shall certify sufficient additional names for the agencies' consideration in filling the total number of vacancies by procedures to retain orderly consideration of eligibles; however, each appointment must be made from the eligibles with the five (5) highest scores. Scores shall be considered in whole numbers. If the register, established as a result of the open-competitive examination for a specific class, is exhausted, the commissioner shall certify and submit names in accordance with the above procedure in accordance with 101 KAR 1:070, Section 3. The life of a certificate during which action may be taken shall be thirty (30) days from the date of issue unless otherwise specified on the certification. Any appointment made from such certificate during that time shall not be subject to any change in the condition of the register taking place during that period.

Section 3. Availability. An eligible may at any time during the life of a register have himself listed as available or not available for appointment to a position of that class in any locality or localities in the state, subject to the area-certification policies, by filing notice to such effect with the commissioner.

Section 4. Selective Certification. (1) The appointing authority may specify in writing requirements of particular experience, education, or skill when he deems such requirements necessary for a position. If, after investigation of the duties and responsibilities of the position, the commissioner finds the particular experience, education, or skill essential for successful performance he may certify in order of rank on the register the names of those persons who possess those qualifications specified. If, in certifying the names of such eligibles, the commissioner finds there are fewer than three (3) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

(2) The appointing authority may specify in writing exceptional requirements of particular physical characteristics when he deems such requirements necessary for a position. If, after investigation of the duties and responsibilities of the position, the commissioner finds the exceptional requirement of the characteristic essential for successful performance, he may certify in order of rank on the register the names of those persons who possess the qualifications specified. If, in certifying the names of such eligibles, the commissioner finds there are fewer than three (3) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

(3) In filling a position in a unit serving a limited area, the appointing authority may request in writing the certification of eligibles who are residents of the county or area served by that unit. Upon receipt of such a request, the commissioner may certify the names of the highest available eligibles who are residents of that county or area first. If, in certifying the names of such eligibles for a vacancy in a unit serving a limited area, the commissioner finds there are fewer than three (3) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

(4) *To facilitate the career employment of participants in employment programs authorized by federal or state law where the participants are employees of state agencies, the appointing authority may specify in writing that participation in such a program be required for a position. If, after investigation, the commissioner finds that such action is necessary to facilitate the career employment of participants in such a program, the commissioner may certify, in order of rank on the register, the names of those persons who have been participants for at least six (6) months in such programs. If, in certifying the names of such eligibles, the commissioner finds there are fewer than three (3) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.*

Section 5. Selection. (1) Written inquiry as to availability must be sent to each eligible certified for appointment unless it is impractical to do so, except that evidence of having sent a written notice to each eligible reported as having failed to reply to the inquiry or unavailable for appointment must be submitted with a report of action on a certification.

(2) In making appointments from the open-competitive register, the appointing authority shall select for each position a person whose score is included in the five (5) highest scores, exclusive of the names of those persons:

(a) Who decline appointment or request that they not be considered for appointment;

(b) Who fail to reply within a period of five (5) calendar days to the written request of the appointing authority for an interview, or within forty-eight (48) hours to a telegraphic request, or who do not arrange to report for such an interview within a reasonable time, or who fail to appear for an interview which they have arranged with the appointing authority;

(c) Who accept an appointment and fail to present themselves for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority;

(d) To whom the appointing authority offers an objection in writing based on 101 KAR 1:060, Section 4, which objection is sustained by the commissioner.

(3) The final selection by the appointing authority shall be reported in writing to the commissioner. At the same time, the appointing authority shall indicate the disposition of the other names listed on the certificate and shall certify to the commissioner the non-availability of any eligibles passed over for that reason.

(4) If, in the exercise of his choice, the appointing authority passes over the name of an eligible on a register in connection with three (3) separate appointments which he has made from the register, written request may be made of the commissioner that the name of such eligible be omitted from any subsequent certifications from the same register to the same appointing authority. This request must contain sufficient evidence to indicate the eligible's unsuitable characteristics for an appointment in the class for which the register was established. If the commissioner approves such request, either the name of such eligible shall not thereafter be certified to him from that register for other vacancies in that class, or his name will be removed from this register.

Section 6. Certification of Names from the Re-employment List. Any employee with status, who has been placed in a layoff category, shall have first priority for consideration in filling any vacancy in a covered position for which he is qualified in any department in any geographic area. A status employee in the layoff category must indicate in writing to the Department of Personnel that he desires re-employment. No examination shall be required for re-employment in the same job classification from which he was laid off. If a laid-off employee with status desires re-employment in job classifications other than the classification in which he was laid off, he must meet the requirements and pass the required examinations for the job classifications in which he seeks re-employment. If more than one (1) laid-off employee with status seeks re-employment in any job classification, the Department of Personnel shall certify all qualified laid-off employees. No vacancy can be filled from the competitive register until after qualified laid-off employees with status, who are seeking to fill the vacancy, have been given full consideration. Written objections to the re-employment of a laid-off employee with status must be approved by the Department of Personnel before names from the competitive register can be certified to an appointing authority for consideration.

Section 7. Certification from the Promotion Register. Whenever a vacancy is to be filled from a register established as a result of a competitive examination, the commissioner shall certify the names of eligibles in accordance with 101 KAR 1:080, Section 2.

PHILIP TALIAFERRO, Chairman
ADDIE D. STOKLEY, Commissioner

ADOPTED: January 12, 1979

RECEIVED BY LRC: January 15, 1979 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Commissioner Addie Stokley, Department of Personnel, Room 373, New Capitol Annex Building, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET
Department of Personnel
(Proposed Amendment)**

101 KAR 1:090. Types of appointments.

RELATES TO: KRS 18.110, 18.140, 18.210, 18.250

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for the manner of the completing appointments and promotions. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for various types of appointments, such as probationary, emergency, provisional, reinstatement, and for such other rules, not inconsistent with KRS Chapter 18 as may be proper and necessary. This rule is necessary to comply with these statutory requirements.

Section 1. Filling of Vacancies. All vacancies in the classified service which are not filled by transfer, promotion, or demotion, shall be filled by probationary appointment, re-employment, reinstatement, temporary appointment, emergency appointment or provisional appointment.

Section 2. Probationary Appointment. The appointment to a permanent position in the classified service through certification in accordance with 101 KAR 1:080 from an open competitive register shall constitute probationary appointment.

Section 3. Provisional Appointment. When a vacancy is to be filled in a position of a class for which there are less than three (3) eligibles available for certification, the appointing authority, with the prior approval of the commissioner, may make a provisional appointment to fill the position. A provisional appointee must be certified by the commissioner as meeting at least the minimum qualifications established for the class of position. No such provisional appointment shall be continued longer than six (6) months nor shall successive provisional appointments of the same person be made to the same position.

Section 4. Emergency Appointment. The appointment of an employee without regard to the examination requirements of these rules to any position by reason of a governmental emergency shall constitute an emergency appointment. An emergency appointment may not exceed thirty (30) working days in duration and is non-renewable. Emergency appointments shall have the prior consent of the commissioner.

Section 5. Temporary Appointments. The appointment of a person to a temporary position shall constitute a temporary appointment. Such appointments shall be subject to the prior approval of the commissioner. Each appointee must be approved by the commissioner as meeting at least the minimum qualifications established for the class. Such appointment shall be for a specified period of time not to exceed six (6) months and shall not be renewable.

Section 6. Re-employment. An employee with status who has been laid off by reasons of lack of funds or work, curtailment of program, abolishment of position or

organization unit, or material change in duties or organization, and through no fault of his own, may request that his name be placed on a re-employment list for the class in accordance with 101 KAR 1:070, Section 7. The name of an employee with status, who has been dismissed for reasons found to be insufficient by the board after hearing the appeal, may be placed on the re-employment list at the discretion of the board. In either case, eligibility to remain on the re-employment list shall expire one (1) year from the effective date of the layoff or separation. The appointment of a person from such list shall constitute re-employment. A person so re-employed shall be subject to the successful completion of a probationary period in accordance with 101 KAR 1:100.

Section 7. Reinstatement. (1) An employee with permanent status who has resigned or been laid off through no fault of his own may be reinstated to any class of position for which he is qualified with the same or lower entrance rate of pay within five (5) years from the effective date of his separation. Such reinstatement shall be made only with the prior approval of the commissioner and shall be subject to the successful completion of a probationary period in accordance with 101 KAR 1:100. The commissioner's approval of a reinstatement shall include a finding that the candidate meets the current qualifications for the class. If the reinstatement is to a different class series the applicant must pass the appropriate examination prior to reinstatement. Age and education requirements may be waived by the commissioner upon recommendation of the appointing authority for reinstatement.

(2) An employee with status who has been dismissed for reasons found by the board after hearing the employee's appeal to be political, religious, or ethnic reasons, or reasons due to race, sex, age (between forty (40) and seventy (70) [sixty-five (65)]), or handicap, shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his separation.

(3) An employee with status who has been dismissed for reasons found by the board after hearing the employee's appeal to be without just cause shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his separation.

Section 8. Seasonal Appointment. The appointment of a person to a position which recurs on a seasonal basis may be made of any applicant meeting the established minimum qualifications. Such appointments shall be subject to the prior approval of the commissioner and shall be made only after the seasonal recurring needs have been established by the appointing authority and shall not exceed eleven (11) months.

Section 9. Unclassified Service. Appointing officers may fill positions in the unclassified service in the manner in which positions in the classified service are filled.

PHILIP TALIAFERRO, Chairman
ADDIE D. STOKLEY, Commissioner

ADOPTED: January 12, 1979

RECEIVED BY LRC: January 15, 1979 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Commissioner Addie D. Stokley, Department of Personnel, Room 373, New Capitol Annex Building, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET
Department of Personnel
(Proposed Amendment)**

101 KAR 1:100. Probationary period

RELATES TO: KRS 18.110, 18.210, 18.250
PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for the manner of completing appointments and promotions. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which the probationer may be dismissed or demoted. This rule is necessary to comply with these statutory requirements.

Section 1. Nature, Duration, and Purpose. The first six (6) months of service in a position to which an employee has been probationally appointed, promoted, re-employed, or reinstated under the provisions of these rules shall, constitute a probationary period. An exception being that when the board finds, after an appeal, that the separation of an employee was taken by the appointing authority for political, religious, or ethnic reason, or reasons due to race, sex, age (between forty (40) and seventy (70) [sixty-five (65)]) or handicap and orders the employee reinstated, a new probationary period will not be required. The commissioner, with the approval of the board, may fix a longer length for the probationary period providing it applies to all positions of a class or classes, but in no case shall the probationary period exceed a twelve (12) month period. Provisional service in a class immediately prior to probationary appointment to the class shall be credited toward the probationary period. The probationary period shall be an essential part of the examination process and shall be utilized for the most effective adjustment of a new employee and for the elimination of any employee whose performance does not meet the required standard of performance. In computing probationary period service for full-time employees, only those months in which the employee works more than half of the work days and earns service credit shall be counted. In computing probationary period service for part-time employees, only those months in which the employee works more than half of his normally scheduled working hours shall be counted.

Section 2. Conditions Preliminary to Attaining Merit Status. An employee shall attain status in the classified service unless the appointing authority separates the employee during the probationary period.

Section 3. Separation During the Probationary Period. (1) If at any time during the probationary period the appointing authority determines that the services of the employee have been unsatisfactory, an employee may be separated from his position without the right of appeal or hearing. The appointing authority shall notify the employee in writing at least ten (10) working days prior to the effective date of separation, and such notification shall be dated and shall include the effective date of the separation, and the reasons for separation and shall be delivered to the employee personally on a date within the probationary period or shall be postmarked on a date within the

probationary period. The reasons for the separation shall be submitted in writing to the commissioner after which they shall be filed for permanent record. After the probationer has been separated, his name may be replaced on the eligible list by the commissioner if he determines such action to be in the best interest of the service, but he shall not again be certified from that list to the agency from which separated unless the agency requests such certification.

(2) When an employee has been promoted but fails to successfully complete the probationary period, he will revert to a position of his former class. Notice that the employee has not successfully completed the probationary period and the reasons therefor shall be delivered to the employee personally on a date within the probationary period or shall be postmarked on a date within the probationary period; in such cases, the employee shall not have the right to appeal. If there is no vacancy in a position of the former class, the rules pertaining to lay-offs shall apply. When an employee is serving a probationary period due to a promotion, and the employee had status in his former position, and the appointing authority dismisses the employee for cause, other than failure to satisfactorily complete the probationary period, reversion to a position of the employee's former class is not necessary; however, in such cases, the employee shall have the right to appeal his dismissal in accordance with 101 KAR 1:130. Such dismissals shall be done in accordance with 101 KAR 1:120, Section 3.

(3) A promoted employee may request and, if approved by the appointing authority, be reverted to a position of his former class during the probationary period.

PHILIP TALIAFERRO, Chairman
ADDIE D. STOKLEY, Commissioner

ADOPTED: January 12, 1979

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TO: Commissioner Addie D. Stokley, Department of Personnel, Room 373, New Capitol Annex Building, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET
Department of Personnel
(Proposed Amendment)**

101 KAR 1:110. Promotion, transfer, demotion and detail to special duty.

RELATES TO: KRS 18.110, 18.190, 18.210, 18.220, 18.270

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.190 requires the personnel board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 requires the commissioner of personnel to prepare and recommend to the board rules which provide for the manner of completing appointments and promotions. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for promotions and transfers; and for discharge and reduction in rank. This rule is necessary to comply with these statutory requirements.

Section 1. Promotion. (1) Vacancies in the classified service shall be filled by promotion whenever practicable and in the best interest of the service. Promotions shall be based upon merit and shall be made in accordance with the procedures established in these rules.

(2) A promotion is the filling of a vacancy by the advancement of an employee with status from a position having a lower minimum salary. Promotions may be made on either a competitive or non-competitive basis at the discretion of the commissioner after consultation with the appointing authority. An employee who is promoted shall be required to serve a probationary period as provided in 101 KAR 1:100. Serving a probationary period upon promotion shall not affect the employee's status in the lower class of position. Appropriate consideration will be given to the qualifications, performance appraisals, conduct, and seniority of applicants for promotion.

(3) To fill a vacancy by competitive promotion, the commissioner of personnel shall examine all qualified, applying, status employees. The commissioner shall prepare a register in the same manner as for open competitive appointments. 101 KAR 1:080 shall govern the selection and appointment.

(4) When an appointing authority nominates a status employee for a non-competitive promotion, the commissioner of personnel may test the nominee. If he finds the nominee qualified, the commissioner may authorize the promotion.

(5) Any employee promoted from a classified to an unclassified position retains his status in the classified service. On separation from the unclassified service, he reverts to the class in which he holds status. If there is no vacancy to which he can revert, 101 KAR 1:120, Section 2, applies.

Section 2. Transfer. (1) The movement of an employee from one position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service shall be deemed a transfer. A transfer may be an inter-agency or intra-agency action. If the employee requests a transfer in writing, such transfer will be deemed to have been made on a voluntary basis and from which there shall be no appeal. If the employee has not requested the transfer in writing, such transfer will be deemed to have been made on an involuntary basis, and the employee shall have the right to appeal such transfer in accordance with 101 KAR 1:130. The employee must meet the minimum requirements of the job class to which transferred.

(2) No employee, certified to a vacancy in a local area on a strictly local area basis in accordance with the provisions of 101 KAR 1:080, Section 4(3), shall be transferred from that position until the probationary period has been completed.

(3) No probationary employee may be transferred between agencies nor between geographical locations to a position having the same salary range and level of responsibility, unless approved by the commissioner of personnel.

(4) No employee may transfer to a different department without prior approval both of the commissioner of personnel and of the personnel officer or head of his present department.

(5) An employee's promotion to a different department must be approved in writing by the personnel officer or head of his present department, or by the commissioner of personnel. If the promotion is approved by his present department, the department must file it with the department of personnel.

(6) Following notification of a transfer, an employee must report for work, or make himself known to be available for work, at either his old work station or the new one to which assigned.

(7) If the transfer is on an involuntary basis, the employee shall be notified of his transfer in writing prior to the effective date of such transfer. The notice shall include the reason for the transfer, the employee's obligation to report to one of his work stations in accordance with subsection (6) of this section, and the employee's right of appeal under 101 KAR 1:130.

Section 3. Demotion. (1) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility.

(2) An employee with status may be demoted only for cause, after the employee has been presented with the reasons for such demotion in writing, and has been allowed at least five (5) working days to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the appointing authority or his deputy. A copy of the statement of reasons and the reply shall be filed with the commissioner. An employee with status may appeal his demotion in accordance with 101 KAR 1:130.

(3) If, for personal or other reasons, an employee requests in writing that he be assigned to a position of a lower class, the appointing authority may make such a voluntary demotion. Voluntary demotions may be intra-agency, or inter-agency; involuntary demotions shall be intra-agency only. If the action is intra-agency, approval of the appointing authority and the commissioner is required; if inter-agency the prior approval of both appointing authorities and the commissioner is required. There shall be no appeal from demotions made on a voluntary basis.

Section 4. [(4)] Detail to special duty. When the services of a permanent employee are needed in a position within the department other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with prior approval of the commissioner of personnel. For detail to special duty the commissioner of personnel may waive the minimum requirements when requested by the appointing authority in writing.

PHILIP TALIAFERRO, Chairman
ADDIE D. STOKLEY, Commissioner

ADOPTED: January 12, 1979

RECEIVED BY LRC: January 15, 1979 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Commissioner Addie D. Stokley, Department of Personnel, Room 373, New Capitol Annex Building, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Department of Personnel
(Proposed Amendment)

101 KAR 1:120. Separations and disciplinary actions.

RELATES TO: KRS 18.110, 18.170, 18.210, 18.240, 18.270

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consist-

tent with KRS Chapter 18. KRS 18.190 requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for layoffs and for separation of employees deemed unsatisfactory or excessive by agency or department heads. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for layoffs, imposition of fines of not more than ten (10) days' pay, suspension without pay for not longer than thirty (30) days, and for discharge or reduction in rank. This rule is necessary to comply with these statutory requirements.

Section 1. General Provisions. Except as otherwise provided in these rules, the tenure of an employee with status shall be during good behavior and the satisfactory performance of his duties.

Section 2. Layoffs. (1) An appointing authority may layoff an employee in the classified service whenever he deems it necessary by reason of shortage of funds or work, abolishment of a position, or other material change in duties or organization. An employee with status may appeal his lay-off in accordance with 101 KAR 1:130. The employee shall be notified of the effective date and shall be given written notice of the reasons for the layoff and of his right to appeal.

(2) Seniority, performance appraisals, conduct, qualifications and type of appointment shall be considered in determining the order of layoffs in a manner prescribed or approved by the commissioner. No status employee is to be separated by layoff while there are provisional, temporary, emergency, or probationary employees serving in the agency in the same class in the same locality.

(3) The appointing authority and the department shall attempt to place the employee in another position for which the employee is qualified.

Section 3. Dismissals. (1) The appointing authority may remove any employee with status only for cause after furnishing the employee and the commissioner with a written statement of the specific reasons for dismissal. Such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a specific description of the alleged unlawful activity. Notifications of dismissal that do not properly specify the reasons shall be considered invalid and the employee shall remain on the payroll until such time as proper charges are affected.

(2) Notifications of dismissal shall inform the employee that he has ten (10) working days, not including the date the notice is received, to reply thereto in writing, or upon request, to appear personally with counsel and reply to the appointing authority or his deputy.

(3) An employee with status may appeal his dismissal as set forth in 101 KAR 1:130.

(4) A dismissed employee may be required to forfeit all accrued leave.

(5) Any employee who has been dismissed for cause or who has resigned while charges for dismissal for cause were pending and who seeks further employment with the state shall not be certified to the agency from which separated unless the agency requests such certification.

Section 4. Separation During Probationary Period. An employee may be separated without the right of appeal at any time during the probationary period as set forth in 101 KAR 1:100, Section 3.

Section 5. Resignations. An employee who desires to terminate his service with the state shall submit a written

resignation to the appointing authority. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation shall be attached to the advice effecting the separation and be filed in the employee's service record in the department. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

Section 6. Retirement. If an employee with status is retired, he is considered as separated without prejudice and does not have the right of appeal.

Section 7. Suspensions. An appointing authority, upon written notice stating the reasons therefor, a copy of which shall be sent to the commissioner, may suspend an employee without pay or other compensation as punishment for disciplinary cause. In the case of an employee with status, such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a specific description of the alleged unlawful activity. Such a suspension shall not exceed thirty (30) working days during any twelve (12) month period. The twelve (12) month period begins with the first day of the suspension. An employee with status may appeal his suspension as set forth in 101 KAR 1:130.

Section 8. Disciplinary Fines. An appointing authority may impose as a disciplinary measure, a fine of not more than ten (10) days pay to be computed on the basis of the employee's current salary. Disciplinary fines may not exceed ten (10) days pay for each occurrence, and may not exceed a total of thirty (30) days pay in any twelve (12) month period. The twelve (12) month period begins with the first day of the disciplinary fine. The employee shall be notified in writing by the appointing authority of the reasons for the action, a copy of which shall be sent to the commissioner. In the case of an employee with status, such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a specific description of the alleged unlawful activity. An employee with status may appeal the action in accordance with the provisions of 101 KAR 1:130. *For purposes of 101 KAR 1:130, the effective date of a disciplinary fine shall be deemed to be the date the employee receives the notification required by this section.*

Section 9. Written Reprimands. An appointing authority may give an employee a written reprimand as a preliminary disciplinary measure. A copy of the written reprimand shall be placed in the employee's personnel file in the agency and a copy shall be given to the employee. The employee shall be given the opportunity to reply in writing to the written reprimand and to include this reply in his personnel file with the written reprimand. The employee shall be informed of his right to reply at the time the written reprimand is given. A written reprimand, in and of itself, is not an appealable penalization and is not a basis for appeal.

PHILIP TALIAFERRO, Chairman
ADDIE D. STOKLEY, Commissioner

ADOPTED: January 12, 1979

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SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Commissioner Addie D. Stokley, Department of Personnel, Room 373, New Capitol Annex Building, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET
Department of Personnel
(Proposed Amendment)**

101 KAR 1:130. Appeals.

RELATES TO: KRS 18.170, 18.270, 18.272

PURSUANT TO: KRS 13.082, 18.170, 18.210, 18.270

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.270 provides that any classified employee who is dismissed, demoted, suspended or otherwise penalized after completing his probationary period may appeal to the Personnel Board within thirty (30) days of the action taken against him. This rule is necessary to assure a uniform and effective procedure for scheduling, hearing, and acting upon such appeals.

Section 1. General Provisions. Any employee, applicant for employment, or eligible on a register, who believes that he has been unjustly discriminated against, may appeal to the board for a hearing subject to the procedural rules of the board.

Section 2. Appeal From Examination Rejection. (1) Any applicant whose application for admission to an open-competitive examination has been rejected and who has been notified of such rejection and the reasons therefor may appeal to the board for reconsideration of his qualifications and for admission to the examination.

(2) Applicants may be conditionally admitted to an examination by the commissioner pending a consideration of an appeal. Admission to a written examination under such circumstances, however, shall not constitute the assurance of a passing grade in training and experience.

Section 3. Appeal From Examination Rating. (1) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly.

(2) Except for correction of clerical errors, a rating in any part of an examination shall not be changed unless it has been found by the board that a mistake has been made, except as provided in 101 KAR 1:070, Section 3. A correction in the rating shall not affect a certification or appointment that may already have been made from the register.

Section 4. Appeal From Removal From Register. An eligible whose name has been removed from a register for any of the reasons specified in 101 KAR 1:070, Section 6(1) and (2), may appeal to the board for reconsideration.

Section 5. Appeal Procedure for Applicants or Eligibles. The appeal to the board by applicants or eligibles under 101 KAR 1:130, Sections 1, 2, 3, 4, must be filed in writing with the commissioner not later than fifteen (15) calendar days after the notification of the action in question was mailed. The applicant or eligible shall have the right to appear before the board and to be heard.

Section 6. Appeal From Dismissals, Demotion, Suspension, or Penalization. (1) Any employee with status who is dismissed, demoted, suspended, or otherwise penalized may appeal to the board.

(2) An employee may appeal a transfer which he considers to be a penalization. Following notification of a

transfer, an employee must report for work, or make himself known to be available for work, at either his old work station or the new one to which assigned.

Section 7. Appeal Procedure for Employees. (1) Any employee with status who is dismissed, demoted, suspended, or otherwise penalized may, within thirty (30) days after the effective date of such dismissal, demotion, suspension, or penalization, appeal to the board through the commissioner. Such appeal shall be in writing and shall set forth the basis for the appeal. The appeal must be filed in the office of the Commissioner of Personnel within the aforementioned thirty-day (30) period. When the thirtieth (30th) day of the filing period falls on a day when the commissioner's office is closed during normal working hours, the appeal may be filed on the next regular working day. The commissioner shall promptly transmit copies of the appeal to the board and to the appointing authority.

(2) The board shall designate an appropriate time and place to conduct the hearing. Such hearing shall be held within thirty (30) calendar days after receipt of the appeal unless circumstances intervene which, in the opinion of the board, would cause undue hardship on either party to the hearing. The appellant and the appointing authority shall be notified in writing at least five (5) working days in advance of the time and place designated for the hearing.

(3) At the hearing, both the appellant and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts. At the hearing of such appeals, technical rules of evidence shall not apply.

(4) If the board finds that the action complained of was taken by the appointing authority for any political, religious, or ethnic reason, or due to sex, race, age (between forty (40) and seventy (70) [sixty-five (65)]), or handicap, the employee shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his penalization, and without penalization, or shall otherwise be made whole.

(5) If the board finds that the action complained of was taken by the appointing authority without just cause, the board shall order the employee reinstated to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole. In all other cases, if the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify or rescind the disciplinary action.

(6) When any employee is dismissed and not ordered reinstated after such appeal, the board in its discretion may direct that his name be placed on an appropriate re-employment list for employment in any similar position other than the one from which he had been removed.

Section 8. Hearing of Appeals. (1) Evidentiary hearings in appeals filed pursuant to KRS 18.270 and 101 KAR 1:130 shall be conducted by the full board or quorum thereof, except as otherwise provided in this rule. The board may adopt a rotating schedule for the attendance of members at evidentiary hearings to be conducted by the board in order to assure the presence of a quorum, but notwithstanding any such schedule any member of the board may attend and participate in any such hearing.

(2) The chairman of the board or a majority of the board, by written order, may designate a single member of the board to conduct any evidentiary hearing on behalf of

the board or may request the commissioner to establish a calendar designating single members of the board to conduct evidentiary hearings on behalf of the board. In all such cases, upon the conclusion of the hearing, the presiding member-hearing examiner shall submit to the board a synopsis of the evidence presented, his findings of fact, and dispositive recommendations in the case before him, and the commissioner shall transmit by certified mail to both parties a copy of the findings of fact and dispositive recommendations. The board upon review of the findings of fact, the synopsis of the evidence presented, and dispositive recommendations of the presiding member-hearing examiner, who shall be present during such review, and after consideration of such written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request of the board, shall make a final determination of the appeal by either:

(a) Adopting as submitted the findings and recommendations of the presiding member-hearing examiner;

(b) Altering before adoption, in any manner deemed proper, either or both the findings and recommendations of the presiding member-hearing examiner;

(c) If felt necessary by any member of the board requesting the commissioner to prepare a copy of the stenographic record taken at the hearing and reserve ruling on the case until each member has been allowed a reasonable opportunity to consider the entire record;

(d) If felt necessary by a majority of the board, remanding the case or any part thereof for rehearing by the same presiding member-hearing examiner, with such hearing examiner to prepare and submit to the parties and the board such additional findings of fact and dispositive recommendations as he feels are necessary upon the conclusion of the rehearing. A stenographic record shall be taken of this additional testimony and the presiding member-hearing examiner shall submit to the board a synopsis of the evidence presented. The board shall then consider the findings of fact, synopsis of the evidence presented, and dispositive recommendations from the original hearing and any additional rehearings ordered, and shall, upon request of any member of the board, instruct the commissioner to prepare a complete or partial record. The board, upon consideration of these items and such additional written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request of the board, shall render its final decision in the case.

(3) The board may designate one or more hearing examiners to assist the board in appeal proceedings. All such hearing examiners shall be attorneys authorized to practice law in Kentucky and shall be selected solely on their knowledge, ability and experience in the trial of administrative and/or judicial proceedings.

(4) Hearing examiners selected by the board, but who are not themselves members of the board, shall conduct evidentiary hearings in the same manner as board member hearing examiners. In all cases, upon the conclusion of the hearing, the hearing examiner shall submit to the board a synopsis of the evidence presented, his findings of fact, and dispositive recommendations in the case before him, and the commissioner shall transmit by certified mail to both parties a copy of the findings of fact and dispositive recommendations. In the presence of the hearing examiner and with his advice, the board shall review these documents, and after consideration of such written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request

of the board, shall make a final determination of the appeal by either:

(a) Adopting as submitted the findings and recommendations of the hearing examiner;

(b) Altering before adoption, in any manner deemed proper, either or both the findings and recommendations of the hearing examiner;

(c) If felt necessary by any member of the board, requesting the commissioner to prepare a copy of the stenographic record taken at the hearing and reserve ruling on the case until each member has been allowed a reasonable opportunity to consider the entire record;

(d) If felt necessary by a majority of the board, remanding the case or any part thereof for rehearing by the same hearing examiner, with such hearing examiner to prepare and submit to the parties and the board such additional findings of fact and dispositive recommendations as he feels are necessary upon the conclusion of the rehearing. A stenographic record shall be taken of this additional testimony and the hearing examiner shall submit to the board a synopsis of the evidence presented. The board shall then consider the findings of fact, synopsis of the evidence presented, and dispositive recommendations from the original hearing and any additional rehearings ordered, and shall, upon request of any member of the board instruct the commissioner to prepare a complete or partial record. The board, upon consideration of these items and such additional written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request of the board, shall render its final decision in the case.

(5) Transcripts: At any time after a hearing but prior to a final order of the Personnel Board, either party may request that an official transcript be prepared concerning said hearing. The party so requesting such official transcript shall bear the entire expense thereto unless otherwise ordered by the Personnel Board. Said request shall be in written motion or request to the board and said motion or request shall be served on the opposing party. A certified check or money order for not less than \$100 made payable to the official court reporter shall accompany said motion or request. The balance due said official court reporter shall be paid in full before said reporter shall file said transcript with the board. Said transcript shall be filed within sixty (60) days after said motion or request is made unless the court reporter, for good reason, requests a thirty (30) day extension in writing. If the court reporter is not paid in full or to her satisfaction as to credit extended, she shall not file said transcript and the deposit described above shall be retained by her for expenses incurred in preparing the transcript.

(6) *In all appeals pending before the personnel board, the taking of depositions for proof, either prior to or subsequent to the hearing, shall not be permitted except where the deponent is a licensed physician or a non-resident of the State of Kentucky, or where the taking of said deposition for purposes of proof is agreed to by the opposing party, or where other extenuating circumstances of such magnitude exist that the hearing officer by order authorizes the taking of such deposition. All hearings of appeals shall be held in Frankfort, Kentucky, unless otherwise designated by the board for good cause. The duly appointed hearing officer shall have the power to issue all intermediate orders concerning said appeal, prior to the final decision of the board; upon request of the hearing officer,*

such orders shall be issued by the commissioner acting as secretary to the board.

PHILIP TALIAFERRO, Chairman
ADDIE D. STOKLEY, Commissioner

ADOPTED: January 12, 1979

RECEIVED BY LRC: January 15, 1979 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Commissioner Addie D. Stokley, Department of Personnel, Room 373, New Capitol Annex Building, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Department of Personnel
(Proposed Amendment)

101 KAR 1:140. Service regulations.

RELATES TO: KRS 18.170, 18.190, 18.210

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 and 18.210 require the Commissioner of Personnel to prepare and submit to the board rules which provide for annual leave, sick leave, special leaves of absence, and for other conditions of employment. This rule is necessary to comply with these statutory requirements.

Section 1. Attendance. Hours of Work: The number of hours full-time employees in state offices in Frankfort are required to work shall be uniform for all positions unless specified otherwise by the appointing authority or the statutes. The normal work day shall be from 8:00 a.m. to 4:30 p.m., local time, Monday through Friday. Employees in other than Frankfort state office buildings shall be subject to such hours of work as set by the appointing authority.

Section 2. Annual leave. (1) Each full-time employee in the state service, except seasonal, temporary and emergency employees, shall be allowed annual leave with pay at the following rate:

Years of Service	Annual Leave Days
0—5 years	1 leave day per month; 12 per year
5—10 years	1 ¼ leave days per month; 15 per year
10—15 years	1 ½ leave days per month; 18 per year
15 years and over	1 ¾ leave days per month; 21 per year

An employee must have worked more than half of the work days in a month to qualify for annual leave. In computing years of total service for the purpose of allowing annual leave, only those months for which an employee earned annual leave shall be used. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18.310, 18.320, or 18.990. Employees serving on a part-time basis who work *at least* [more than] 100 hours a month shall be allowed annual leave with pay at the following rate:

Years of Service

Annual Leave Hours

0—5 years	4 leave hours per month; 48 per year
5—10 years	5 leave hours per month; 60 per year
10—15 years	6 leave hours per month; 72 per year
15 years and over	7 leave hours per month; 84 per year

In computing years of total service for the purpose of allowing annual leave for part-time employees, only those months in which the employee worked at least 100 hours shall be used. Employees serving on a part-time basis who work less than 100 hours a month or on a per diem basis shall not be entitled to annual leave.

(2) Annual leave for full-time employees may be accumulated and carried forward from one calendar year to the next not to exceed the following maximum amounts:

Years of Service

Maximum Amount

0—5 years	Thirty (30) work days
5—10 years	Thirty-seven (37) work days
10—15 years	Forty-five (45) work days
15—20 years	Fifty-two (52) work days
Over 20 years	Sixty (60) work days

Annual leave for part-time employees who work at least 100 hours a month may be accumulated and carried forward from one (1) calendar year to the next not to exceed the following maximum amounts:

Years of Service

Maximum Amount

0—5 years	120 hours
5—10 years	148 hours
10—15 years	180 hours
15—20 years	208 hours
Over 20 years	240 hours

However, leave in excess of the above maximum amounts may be carried forward for a period of six (6) months if the appointing authority justifies in writing the reasons which made it impossible to allow an employee to take accumulated annual leave in a timely manner. Annual leave shall not be granted in excess of that earned prior to the starting date of leave.

(3) Absence on account of sickness, injury, or disability in excess of that hereinafter authorized for such purposes may, at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

(4) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with the request of employees.

(5) Employees are charged with annual leave for absence only on days upon which they would otherwise work and receive pay.

(6) Annual leave shall accrue only when an employee is working or on authorized leave with pay. Annual leave shall not accrue when an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he must have used or have been paid for any accumulated annual leave.

(9) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in Section 2(2) above, when separated by proper resignation, layoff, retirement or when granted leave without pay in excess of thirty (30) working days. The effective date of the separation shall be the last work day and the employee's amount of accumulated annual leave shall be listed in the remarks section of the advice effecting the separation. A supplemental pay voucher shall be submitted on accumulated annual leave.

(10) An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts as set forth in Section 2(2) above.

(11) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave not to exceed the maximum amounts as set forth in Section 2(2) above.

(12) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or one-half ($\frac{1}{2}$) hours.

Section 3. Sick Leave. (1) Each employee in the state service, except an emergency, part-time, or per-diem employee, shall be allowed sick leave with pay at the rate of one (1) working day for each month of service. An employee must have worked more than half of the work of the work days in a month to qualify for sick leave with pay. Employees serving on a part-time basis who work *at least* [more than] 100 hours a month shall be allowed four (4) hours sick leave for each month of service. Employees serving on a part-time basis who work less than 100 hours a month or on a per-diem basis shall not be entitled to sick leave.

(2) Full-time employees completing ten (10) years of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for the purpose of crediting ten (10) additional days of sick leave, only those months for which an employee earned sick leave shall be used. Part-time employees who work at least 100 hours a month completing ten (10) years of total service with the state shall be credited with forty (40) additional hours of sick leave upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for part-time employees who work at least 100 hours a month for the purpose of crediting forty (40) additional hours of sick leave, only those months in which the employee worked at least 100 hours shall be used. The total service must be verified in writing before the leave is credited to the employee's record. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from the violation of KRS 18.310, 18.320, or 18.990.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4) Sick leave shall accrue only when an employee is working or on authorized leave with pay. Sick leave shall not accrue when an employee is on educational leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay when an employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness or injury;

(c) Is disabled by pregnancy and/or confinement;

(d) Is required to care for a sick or injured member of his immediate family for a reasonable period of time;

(e) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(f) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph is limited to three (3) days or a reasonable extension at the discretion of the appointing authority.

(6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority shall return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority shall return the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit.

(7) An appointing authority shall grant sick leave without pay for so long as an employee is disabled by sickness, or illness, or pregnancy and confinement, and the total continuous leave does not exceed two (2) years. When the employee has given notice of his ability to resume his duties, the appointing authority shall return the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit; if there is no such position available, the rules pertaining to lay-off apply. An employee who is unable to return to work at the end of two (2) years of sick leave without pay, after being requested to return to work at least ten (10) days prior to the expiration of such sick leave, shall be terminated by the appointing authority. An employee granted sick leave without pay may, upon request, retain up to ten (10) days of accumulated sick leave.

(8) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or one-half ($\frac{1}{2}$) hours.

(9) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(10) Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30) working days. The employee's amount of accumulated sick leave shall be listed in the remarks section of the advice effecting the separation. Former employees who are reinstated or re-employed may have up to ten (10) days of their accumulated and unused sick leave balances revived upon appointment and placed to their credit upon request of the appointing authority and approval of the commissioner. Any additional balance may be revived after sixty (60) days of work upon similar request.

(11) In cases of absence due to illness or injury for which Workmen's Compensation benefits are received for lost time, sick leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.

(12) Application for sick leave. An employee shall file a written application for sick leave with pay within a reasonable time. Except in cases of emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay. In all cases of illness, an employee is obligated to notify his immediate supervisor or other designated person. Failure to do so in a reasonable period of time may be cause for denial of sick leave for the period of absence.

(13) Supporting evidence:

(a) An appointing authority may require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

(b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties or whose health might jeopardize others, and who, on request, fails to produce a satisfactory medical certificate.

Section 4. Court Leave. An employee shall be entitled to leave of absence from duties, without loss of time or pay for that amount of time necessary to comply with subpoenas by any court, federal, state, or political subdivision thereof, to serve as a juror or a witness except in cases where the employee himself or a member of his family is a party plaintiff in court action. This leave shall include necessary travel time. If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

Section 5. Compensatory Leave. Accumulated compensatory time shall be granted by the appointing authority in accordance with agency needs and requirements and, insofar as practicable, in accordance with the employee's request. To maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing the employee's compensatory time balance, an appointing authority may direct an employee to take accumulated compensatory time off from work.

Section 6. Military Leave. Any employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties upon request therefor, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in any one (1) calendar year, and any such absence shall not be charged to leave. Absence in excess of this amount will be charged as annual leave or leave without pay. The appointing authority may require a copy of the orders requiring the attendance of an employee before granting military leave.

Section 7. Voting Leave. Appointing authorities shall allow all employees ample time to vote. Such absence shall not be charged against leave.

Section 8. Special Leave of Absence. (1) In addition to leaves as above provided, an appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) An appointing authority, with approval of the commissioner, may grant leave of absence for a period not to exceed twenty-four (24) months for the following purposes, with or without pay: for assignment to and attendance at college, university, or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service; or for purposes other than above that are deemed to be in the best interests of the state.

(3) An appointing authority, with approval of the commissioner, may grant an employee entering active military duty a leave of absence without pay for a period of such duty.

Section 9. Absence Without Leave. An employee who is absent from duty without approval shall report the reason therefore to his supervisor immediately. Unauthorized and/or unreported absence shall be considered absence without leave and deduction of pay may be made for each period of such absence. Such absence may constitute grounds for disciplinary action and will serve to interrupt continuous service as defined in 101 KAR 1:050.

Section 10. Performance Appraisal. Quality and quantity of work shall be considered in determining salary advancements, in promotions, in determining the order of layoff, in re-employment, and as a means of identifying employees who should be promoted, demoted, or dismissed.

Section 11. Records and Reports. (1) Personnel action forms: The commissioner shall prescribe personnel action forms which appointing authorities shall use to report such personnel actions and status changes as he may require. The commissioner shall inform the appointing authorities which personnel actions and status changes must be reported to him.

(2) Leave records: Each appointing authority shall install and maintain a leave record showing for each employee:

(a) Annual leave earned, used and unused;

(b) Sick leave earned, used and unused; and

(c) Special leave or any other leave with or without pay. Such record shall be documentary evidence to support and justify authorized leave of absence with pay. Each appointing authority shall notify his employees of their annual and sick leave balances as of January 1; a summary of which shall be sent to the department by February 1.

(3) Official roster: The commissioner shall prepare and maintain a record of all employees showing for each employee his name, address, title of position, salary rate, changes in status, transfer, sick leave and annual leave.

Section 12. Confidentiality of Records. (1) Except as otherwise provided by law or in the rules, all records of the department shall be considered public records and may be inspected, when in the public interest, upon proper application made to the commissioner during normal working hours.

(2) Unless the board shall determine otherwise, records of the department involving investigation correspondence and data related to the moral character and reputation of applicants for employment or employees in state service; and examination materials, questions, data and examination papers and records relating in any way to competitive examinations and tests conducted and held by the department shall be held confidential.

Section 13. Dual Employment. No employee holding a full-time position with the Commonwealth may hold another state position except upon recommendation of the appointing authority and the written approval of the Commissioner of Personnel. A copy of such written approval and a statement of the reasons therefor shall be transmitted to the Governor and the Director of the Legislative Research Commission. A complete list of all employees holding more than one (1) state position shall be

furnished to the Legislative Research Commission quarterly by the commissioner.

Section 14. Minimum Hiring Age. The minimum age for hiring of state employees shall conform to federal and state labor laws, rules and regulations.

Section 15. Maximum Hiring Age. (1) The maximum hiring age for permanent employment subject to these rules is *seventy (70)* [sixty-five (65)].

(2) Agencies may request that individuals over *seventy (70)* [sixty-five (65)] be tested and/or employed. The request must be justified in writing by the appointing authority, stating the reasons why it serves the public interest, and must have the prior approval of the Commissioner of Personnel. Applicants so approved shall be certified only to those agencies requesting such waivers.

Section 16. Retirement. (1) The normal retirement age for employees subject to these rules shall be *seventy (70)* [sixty-five (65)].

(2) Employees over *seventy (70)* [sixty-five (65)] may be allowed to continue employment from year to year with prior approval of the Commissioner of Personnel when it serves the public interest. Such requests must be justified in writing by the appointing authority.

Section 17. Restoration From Military Leave. (1) State appointing authorities shall comply with the provisions of KRS 61.371, 61.373, 61.375, 61.377, 61.379.

(2) The Department of Personnel shall require proper compliance with these statutes as they pertain to state employees.

(3) The appointing authorities for employees in county, city, or political subdivisions thereof, are responsible for compliance with these statutes, in keeping with normal personnel practices and procedures of each.

(4) Appeals may be filed by an employee or previous employee pursuant to 101 KAR 1:130. The governmental agency from which the appeal is filed shall bear the expense of the hearing of the appeal.

(5) A former employee seeking restoration, who has been rejected or otherwise penalized, must file an appeal within thirty (30) days, after notification of such rejection or penalization by an appointing authority.

PHILIP TALIAFERRO, Chairman
ADDIE D. STOKLEY, Commissioner

ADOPTED: January 12, 1979

RECEIVED BY LRC: January 15, 1979 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Commissioner Addie D. Stokley, Department of Personnel, Room 373, New Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE
State Board of Medical Licensure
(Proposed Amendment)

201 KAR 9:020. Licensing qualifications; approved schools.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all

the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to assure uniformity of requirements to all applicants for regular licenses to practice medicine or osteopathy in Kentucky.

Section 1. Qualifications for Regular Medical and Osteopathic Licenses. No person shall be entitled to a regular license unless he meets all requirements specified in KRS 311.570(1) and has successfully passed a written examination prescribed by the board; provided, however, that regular licenses may be issued by reciprocity for endorsement as otherwise provided by regulation of the board without written examination. Provided, further, that graduates of medical schools situated outside the United States or Canada shall have successfully completed at least one (1) year of internship or postgraduate training in a hospital or institution located in the United States or Canada and approved by the board. [In addition, all foreign medical graduates whose native language is not English shall have successfully passed a written examination of a "Test of English as a Foreign Language" (TOEFL) administered by the Educational Testing Service as a pre-requisite for medical licensure in this state.]

Section 2. Medical and Osteopathic Schools in the United States and Canada Approved by the Board. (1) All medical schools, colleges, and universities located in the United States approved by the Council on Medical Education of the American Medical Association are approved by the board, in connection with the issuance of regular licenses to practice medicine in Kentucky.

(2) All medical schools, colleges, and universities located in Canada and approved by the Canadian Medical Association are approved by the board, in connection with the issuance of regular licenses to practice medicine in Kentucky.

(3) All osteopathic schools and colleges located in the United States and approved by the American Osteopathic Association are approved by the board in connection with the issuance of osteopathic licenses in Kentucky.

Section 3. Medical Schools Outside the United States or Canada. All medical schools situated outside the United States or Canada are approved for regular medical licenses provided the applicant has been fully certified by the Educational Commission for Foreign Medical Graduates (ECFMG), or has been fully certified [or is eligible for certification] by an approved American Medical Specialty Board recognized and approved by the American Medical Association and the board.

Section 4. Medical and Osteopathic Programs Approved for Internship and Postgraduate Training. (1) All internship and postgraduate programs in hospitals and institutions located in the United States approved by the Council on Medical Education of American Medical Association are approved by the board in connection with the issuance of a regular license to practice medicine in Kentucky.

(2) All internships and postgraduate programs in hospitals and institutions located in Canada and approved by the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada are approved by the board in connection with the issuance of a regular license to practice medicine in Kentucky.

(3) All internships and postgraduate programs in

hospitals and institutions located in the United States and Canada and approved by the American Osteopathic Association are hereby approved by the board in connection with the issuance of a license to practice osteopathy in Kentucky.

(4) The equivalency of all other programs in hospitals and institutions may be considered for approval by the board in connection with the issuance of a regular license on an individual basis.

Section 5. Personal Interview. If the board so directs, an applicant shall personally appear before the secretary or assistant secretary of the board, or some person designated by the secretary or assistant secretary, for a personal interview to establish his identity and qualifications.

Section 6. Endorsement. "Endorsement" means a written and signed certification by the duly authorized officer or representative of the official statutory medical or osteopathic examining board of some other state of the United States, or by the National Board of Medical Examiners, or by the National Board of Examiners for Osteopathic Physicians and Surgeons, or any approved successors thereof, that a certain person is a licensee, in good standing, or said board, and that the person was required to and did, as a condition precedent to such licensure, satisfactorily pass a comprehensive written examination conducted by said board. Endorsement may be accepted by the board in lieu of further written examination in Kentucky without regard to the existence or non-existence of a reciprocal agreement, but shall not be in lieu of standards and qualifications prescribed by KRS 311.570(1) and the regulations of the board. The secretary or assistant secretary of the board shall prepare, or cause to be prepared, all forms desirable and appropriate for licensure by endorsement, including applications, questionnaires, certificates, and licenses. The secretary or assistant secretary is authorized to require the submission of photographs, fingerprints, personal history data, and grades of his licensure examining board in connection therewith.

JOHN C. QUERTERMOUS, M.D., President
Kentucky State Board of Medical Licensure

ADOPTED: November 30, 1978

RECEIVED BY LRC: December 28, 1978

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. C. William Schmidt, Assistant Secretary, Kentucky State Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Medical Licensure
(Proposed Amendment)

201 KAR 9:060. Limited licenses.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all

the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and empowers the board to establish requirements and standards relating thereto. The purpose of this regulation is to assure uniformity of requirements to all applicants for limited licenses to practice medicine in Kentucky.

Section 1. Qualifications for Limited Licenses. No person shall be eligible for a limited license unless he meets all requirements specified in KRS 311.570(3) and has successfully passed a written examination prescribed by the board and has satisfactorily completed one (1) year of internship or postgraduate training in a hospital or other institution located in the United States or Canada and approved by the board. Provided, however, that the board may consider the equivalency of such training performed in other foreign countries on an individual basis. [In addition, all foreign medical graduates whose native language is not English shall have successfully passed a written examination of a "Test of English as a Foreign Language" (TOEFL) administered by the Educational Testing Service as a pre-requisite for medical licensure in this state.]

Section 2. Types of Limited Licenses. The board may, in its discretion issue "limited licenses-institutional practice" authorizing the licensee to practice medicine in a specific institution or hospital to the extent indicated in said license. Notwithstanding the foregoing, the following types of limited licenses issued prior to September 1, 1972 may be continued in effect: "limited license-general medicine;" and "limited license-public health."

Section 3. Scope of Limited Licenses issued prior to September 1, 1972 for General Medicine and Public Health. (1) A "limited license-general medicine" issued prior to September 1, 1972, limits the licensee to the practice of general medicine at a particular city, town, county, or other area specifically designated by the board. Such license shall not authorize the licensee to perform major surgery unless expressly authorized by the board at the time the license was issued.

(2) A "limited license-public health" issued prior to September 1, 1972, shall entitle the licensee to perform the duties of a health officer at a local health department or to perform public health work as an employee of the state.

Section 4. Signing of Legal Documents. All limited licensees shall be authorized to sign birth and death certificates, orders for controlled substances, other prescription drugs, and other legal documents, in accordance with applicable federal and state laws, provided the execution of same involves duties within the scope of the limited license.

JOHN C. QUERTERMOUS, M.D., President
Kentucky State Board of Medical Licensure

ADOPTED: November 30, 1978

RECEIVED BY LRC: December 28, 1978

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. C. William Schmidt, Assistant Secretary, Kentucky State Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Real Estate Commission
(Proposed Amendment)

201 KAR 11:060. Broker's name required on advertising.

RELATES TO: KRS 324.115

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: *To eliminate misinterpretation of the present regulation by licensees in the field. [To inform and set certain standards for the licensees and to protect the public.]*

Section 1. Unless otherwise prohibited by law, the employing broker's name and the fact that he is a real estate broker shall appear in all advertising of any nature whatsoever, including newspaper ads, all signs, stationery, cards, etc., in order that the general public be advised of the licensed broker. [Firm name only is required on newspaper classified ads. This regulation shall apply only to those brokers who are doing business under a firm name or assumed name other than their own.]

Section 2. *Firm name only is required on newspaper classified ads for those brokers who are doing business under a firm name or assumed name other than their own. In case of a franchisee or franchisor, the franchisee's name and the firm name must appear in the classified advertisement. [The name of the employing broker on all posted signs shall not be less than one (1) inch in height.]*

Section 3. *The name of the employing broker on all posted signs shall not be less than two (2) inches in height. [The deceased broker's name may remain a part of the firm name.]*

Section 4. *The deceased broker's name may remain a part of the firm name. [Only brokers and broker-salesmen may have their name in the firm name. (No salesman's name may be a part of the firm name.)]*

Section 5. *Only brokers and broker-salesmen may have their name in the firm name. (No salesman's name may be a part of the firm name.) [Any salesman or broker employed as a salesman must advertise in the name of his employing broker, even when selling his own property.]*

Section 6. *Any salesman or broker employed as a salesman must advertise in the name of his employing broker, even when selling his own property.*

JOHN A. CELLETTI, Chairman

ADOPTED: December 7, 1978

APPROVED: ROY STEVENS, Secretary

RECEIVED BY LRC: January 4, 1979 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: General Counselor, Kentucky Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

DEPARTMENT OF FINANCE
Board of Nursing
(Proposed Amendment)

201 KAR 20:030. Registered nurse schools.

RELATES TO: KRS 314.111, 314.011(5)

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: It is necessary to establish standards for registered nurse schools to assure that students will have an appropriate educational program to prepare them for licensure.

Section 1. Nurse Faculty. The number of faculty members shall be sufficient for the total number of students, number of students in each class, number of nursing laboratory areas used, and the curriculum design.

Section 2. Nurse faculty members shall be currently licensed in Kentucky *within ninety (90) days of employment.*

(1) The minimum educational qualifications for the nurse administrator of the program shall be a masters degree with a major in nursing or baccalaureate degree with a major in nursing and a masters degree in a related field. The nurse administrator shall have educational preparation and/or experience appropriate to the responsibilities of the position.

(2) At least half of the nurse faculty members in programs established after September 1, 1968 shall have a masters degree. By 1980 at least three-fourths (¾) of the nurse faculty members in all programs preparing graduates for licensure as registered nurses shall have a masters degree.

(3) All nurse faculty members employed after July 1, 1975 shall have had at least one (1) year of nursing experience as a registered nurse, and shall meet one (1) of the following educational requirements:

(a) Baccalaureate degree with a major in nursing;

(b) Masters degree in a related field subsequent to a baccalaureate degree with a major in nursing;

(c) Masters degree with a nursing major.

(4) All faculty members employed prior to July 1, 1975 who do not have a masters degree shall meet that requirement by September 1, 1980. Faculty members with only a BSN who are employed after July 1, 1975 will have five (5) years in which to earn a masters degree.

(5) All faculty members shall present evidence each year of continuing effort toward maintaining nursing competency and/or improving skills in the area of responsibility.

Section 3. Students. (1) Students shall have completed at least an approved four (4) year high school course or the equivalent as determined by an appropriate educational agency.

(2) Students shall meet the requirements established by the school for admission to the program, progression and graduation.

Section 4. Curriculum. (1) The curriculum shall reflect the philosophy and objectives of the school and facilitate the achievement of the objectives of the program.

(2) The curriculum, designed to prepare the graduate for the practice of nursing as a registered nurse, shall include learning experiences whereby students develop:

(a) Understanding of the role of the nurse as a member of the profession and the nurse's relationship to other

workers in health and related disciplines;

(b) Knowledge of facts, principles, and concepts from the natural and social sciences which are basic to nursing practice and to an understanding of plans for care;

(c) Ability to use the health-illness continuum as a basis for assessing the nursing and health care needs of people;

(d) Understanding of physical and emotional needs of individuals throughout the life cycle;

(e) Understanding of and the ability to use effective human relationships;

(f) Knowledge of incidence, causes and manifestations of common health problems; and

(g) Understanding of nursing principles and ability to apply them in the selection and implementation of appropriate nursing measures for people with specific needs.

(3) The curriculum shall provide instruction in:

(a) Biological and physical sciences. Content shall include facts, principles, and concepts of the biological and physical sciences which are basic to nursing practice and to understanding plans for health care.

(b) Social and behavioral sciences. Content in this area shall be the basis for the student to develop skill in understanding and relating to people.

(c) Nursing. Content shall be designed to guide the student in developing an understanding of and skill in assessing, planning, implementing, and evaluating nursing care. It shall include nursing care of adults and children of all age groups and both sexes, mothers and newborn infants and patients with common medical, surgical and mental health problems. The concept of health maintenance shall also be included as well as care of individuals and groups of patients who are mildly, acutely and chronically ill.

(4) There shall be a general plan of the total curriculum, showing placement of courses and the number of hours allotted to class and laboratory learnings.

(5) A copy of each current course outline including objectives, planned instruction, learning activities and methods of evaluation shall be kept on file.

(6) The nursing program shall be at least two (2) academic years in length.

(7) Proposed major curriculum changes (e.g., addition or deletion of courses, decrease in total credit allotment for nursing content, but not rearrangement of content within nursing courses) must be submitted in writing for board approval before implementation of the changes.

DORIS McDOWELL, Executive Director
Kentucky Board of Nursing

ADOPTED: September 22, 1978

APPROVED: ROY STEVENS, Secretary

RECEIVED BY LRC: January 4, 1979 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Doris McDowell, R.N., Executive Director, Kentucky Board of Nursing, 6100 Dutchmans Lane, Louisville, Kentucky 40205.

CABINET FOR DEVELOPMENT Department of Fish and Wildlife Resources (Proposed Amendment)

301 KAR 1:015. Boats and outboard motors; size limits.

RELATES TO: KRS 150.025, 150.090, 150.620, 150.625

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: It is necessary to regulate the size of outboard motors and boats on state-owned lakes to minimize the conflict with the primary purposes of the lakes which are the perpetuation of fish or game populations and the associated sports. *It is necessary to change the length of float boats allowed on lakes Malone and Beshear.* [It is necessary to limit the horsepower of boat motors used on lakes Malone and Beshear, and Guist Creek for safety.]

Section 1. No boat [of any type, canoes excepted,] will be permitted on any of the herein named lakes with a centerline exceeding sixteen (16) feet in length as measured on deck or from bow to stern, except canoes which have no length limit and float boats which may have pontoons and decking no longer than twenty-two (22) feet. *Lake Malone and Lake Beshear are exceptions; on these lakes, the centerline of boats may be eighteen (18) feet six (6) inches and float boats can have pontoons and decking up to thirty (30) feet in length.* [on Lake Malone and Lake Beshear where the centerline length cannot exceed eighteen (18) feet six (6) inches; however, in no case shall pontoons that may be used in floating the decking or superstructure of boats exceed a length of twenty-two (22) feet.]

Section 2. No houseboats of any description will be permitted on any of the herein named lakes.

Section 3. No motor of any type is permitted on the following lakes:

- (1) Lake Chumley, Lincoln County,
- (2) Dennis Gooch Lake, Pulaski County,
- (3) Martin County Lake, Martin County,
- (4) Kingdom Come Lake, Harlan County.

Section 4. Electric motors only may be used on the following lakes:

- (1) Carter Caves Lake, Carter County,
- (2) Spurlington Lake, Taylor County,
- (3) Marion County Lake, Marion County,
- (4) Elliott County Sportsmen's Lake, Elliott County,
- (5) Lake Washburn, Ohio County,
- (6) Bert Combs Lake, Clay County,
- (7) McNeely Lake, Jefferson County,
- (8) Lake Mauzy, Union County,
- (9) Carpenter Lake and Kingfisher Lakes, Daviess County,
- (10) Metcalfe County Lake, Metcalfe County,
- (11) Briggs Lake, Logan County.

Section 5. Electric motors only may be used on the following lakes located in Ballard County. These lakes are closed 15 October to 15 March, annually:

- (1) Big Turner,
- (2) Little Turner,
- (3) Shelby,
- (4) Mitchell,
- (5) Happy Hollow,

- (6) Burnt Slough,
- (7) Butler.

Section 6. No motor larger than six (6) hp. may be used on Greenbo Lake located in Greenup County.

Section 7. No motor larger than ten (10) hp. (inboard or outboard) may be used on the following state-owned lakes; however, slow speeds which cause no disturbance or interference with fishing must be exercised at:

- (1) Shanty Hollow Lake, Warren County,
- (2) Bullock Pen Lake, Grant County,
- (3) Lake Boltz, Grant County,
- (4) Falmouth Lake, Pendleton County,
- (5) Elmer Davis Lake, Owen County,
- (6) Beaver Creek Lake, Anderson County,
- (7) Herb Smith Lake, Harlan County,
- (8) Corinth Lake, Grant County,
- (9) Wilgreen Lake, Madison County.

Section 8. No boat motor larger than 150 hp. may be used, and all boat motors used must have an underwater exhaust on the following state-owned lakes:

- (1) Guist Creek Lake, Shelby County,
- (2) Lake Malone, Todd, Muhlenberg and Logan Counties,
- (3) Lake Beshear, Christian and Caldwell Counties.

Section 9. All officers and agents of the Department of Fish and Wildlife Resources shall have full authority to enforce the provisions of this regulation. Failure to comply with the rules and specifications set forth in this regulation shall constitute grounds for revocation of the rights and privileges of any person to admittance to and to the use of these public waters.

CARL E. KAYS, Commissioner

ADOPTED: December 10, 1978

APPROVED: WILLIAM SHORT, Secretary

RECEIVED BY LRC: January 11, 1979 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 3:053. Spring gun and archery season for wild turkey.

RELATES TO: KRS 150.025, 150.175, 150.176, 150.305, 150.330, [150.310] 150.360, 150.365, 150.390

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation pertains to the spring gun and archery season and limits for wild turkey. The Commissioner with the concurrence of the Commission finds this regulation necessary for the continued protection and conservation of wild turkey populations and to insure a permanent and continued supply for present and future residents of the state. The function of

this regulation is to provide for the prudent taking of wild turkeys within reasonable limits based upon an adequate supply. *This amendment is necessary to change season dates, open additional game management areas to turkey hunting and specify hunting procedures and permitted weapons.*

Section 1. Seasons and Counties Open to Wild Turkey Hunting. (1) [Statewide] Seasons and Counties:

[(a)] Opens the *third* [fourth] Saturday in April for *ten* [10] [nine (9)] consecutive days. Jackson; Owsley; Bath; [Rockcastle;] Lee; Rowan; Pike, except Breaks Interstate Park; Letcher; [, except Pine Mountain Wildlife Management Area and that portion of Menifee County north of U.S. Highway 460.] Menifee and Butler Counties.

[(b)] Opens the fourth Saturday in April for five (5) consecutive days. That portion of Butler County east of Green River Parkway.]

(2) All other counties [, portions of counties] and wildlife management areas are closed to wild turkey hunting unless specified below.

Section 2. Seasons on Wildlife Management Areas. (1) Fort Knox Wildlife Management Area located in Hardin, Bullitt and Meade Counties. Season: any and all Saturdays and Sundays in April except April 1, depending upon military training priorities.

(2) Land Between the Lakes Wildlife Management Area located in Trigg and Lyon Counties. Season: opens the second Wednesday in April for *nineteen* (19) [twelve (12)] consecutive days.

(3) Pioneer Weapons Wildlife Management Area located in Bath and Menifee Counties. Season: opens the *third* [fourth] Saturday in April for *ten* (10) [nine (9)] consecutive days.

(4) Pine Mountain Wildlife Management Area located in Letcher County. Season: opens the *third* Saturday in April for *ten* (10) consecutive days.

(5) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties. Season: April 21, 22, 28 and 29.

Section 3. Bag and Possession Limits for All Areas Open to Turkey Hunting. Only one (1) turkey gobbler with visible beard per hunter per calendar year shall be taken.

Section 4. Requirements and Restrictions for Gun and Archery Turkey Hunting in All Designated Counties and Wildlife Management Areas.

(1) [(2)] The use of dogs in turkey hunting is prohibited.

[(1)] A successful hunter cannot assist any other hunter in taking turkey.]

(2) Any hunters taking or attempting to take wild turkey must have in their possession a valid wild turkey permit, unless exempted by KRS 150.170(3), (5) or (6) (the resident owner of farmlands, his wife or dependent children; resident tenants or their dependent children residing upon said farmlands; residents sixty-five (65) years or older; and resident servicemen on furlough of more than three (3) days in their county of legal residence). All persons except those exempted by KRS 150.170(3), (5) or (6), must have a valid annual Kentucky hunting license in addition to the wild turkey permit. All non-residents are required to possess an annual non-resident hunting license and a wild turkey permit.

[(3)] Any person hunting turkey must have in his or her possession a valid annual Kentucky hunting license.]

(3) [(4)] Residents of states that do not allow residents of Kentucky to hunt turkey during open seasons in those states are prohibited from hunting turkey in Kentucky.

(4) [(5)] Turkey may be taken from one-half (1/2) hour before sunrise until 12 noon except at Land Between the Lakes [,] and Fort Campbell Wildlife Management Areas, where hunting is allowed from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. All hours are prevailing time.

(5) [(6)] Turkey may be taken with the aid of hand or mouth operated calls, or both. Electronic calls are prohibited.

(6) [(7)] Permitted and Prohibited Weapons. (See exceptions under Wildlife Management Areas.)

(a) Guns. Turkey may be taken with breech-loading shotguns, muzzle-loading shotguns, [breech-loading rifles] and muzzle-loading rifles. Shotguns must be no larger than 10-gauge or smaller than 20-gauge. Fully automatic firearms are prohibited. Handguns are prohibited for taking turkeys except for muzzle-loading handguns on Pioneer Weapons Wildlife Management Area.

(b) Bows and arrows. Turkey may be taken with any longbows and compound bows which are not fitted with any device designed to hold an arrow at full draw without human aid and are not capable of release by a triggering device. Only barbless arrows without chemical treatment or chemical attachments, with broadhead points at least seven-eighths (7/8) inch wide are permitted.

(c) Crossbows. Crossbows are permitted only on the Pioneer Weapons Wildlife Management Area. Crossbows must be of at least eighty (80) pounds pull. Arrows must be barbless with broadhead points at least seven-eighths (7/8) inch wide.

(7) [(8)] Mandatory turkey check stations. Any hunter harvesting a wild turkey must have it checked at the nearest check station or by the nearest available conservation officer no later than 6:00 p.m. [12 noon] on the day [after] the turkey is taken except as required on specified wildlife management areas. [This also applies to the last day's hunt.] *The hunter must complete the wild turkey permit and attach the hard copy to the turkey. The original copy will be retained by the check station operator or conservation officer.* [A list of check stations may be obtained from any county clerk's office, conservation officer or by writing to Game Division, Department of Fish and Wildlife Resources, Frankfort, Kentucky 40601.]

Section 5. Wildlife Management Area Regulations. (1) Land Between the Lakes Wildlife Management Area. Wild turkey may be taken on the Kentucky portion of Land Between the Lakes only in designated areas. Permits for the hunt are required and may be obtained free of charge after March 1 at the Golden Pond Information Office and at the North Information Station twenty-four (24) hours per day. Firearms transported in vehicles during authorized hunts must be unloaded. Target practice is prohibited. *Notwithstanding the provisions of 301 KAR 2:050, Section 3, turkey [Turkey] may be taken with shotguns, including muzzle-loaders, no larger than 10-gauge [12-gauge] or smaller than 20-gauge; only Number 2 shot or smaller is permitted.* Permitted archery equipment is the same as that listed in Section 4, subsection (6) [(7)] (b) of this regulation. Rifles, crossbows and handguns are prohibited. Hunters are not required to check in or out, but all turkey taken must be checked out and must be tagged with a *valid state wild turkey permit and a Land Between the Lakes area tag[s] provided free at the check station [at no charge].* Check stations will be located near the junction of

The Trace and U.S. Highway 68, and on The Trace about one (1) mile south of Barkley Canal.

(2) Fort Knox Wildlife Management Area. Turkey hunting is restricted to military and civilian personnel assigned to or working on the post, except a limited number of off-post civilians will be permitted to hunt provided areas are available. Off-post civilian hunters must apply in person at the hunt control headquarters building, Fort Knox, Kentucky, *on the Friday before any weekend during which they wish to hunt [beginning March 28 at 8:30 a.m]. For more information call Area Code 502 624-7311 at Fort Knox.* Turkey may be taken with shotguns no larger than 12-gauge or smaller than 20-gauge and muzzle-loading rifles no smaller than .32 caliber firing a single projectile. Buckshot and slugs are prohibited. All turkeys harvested must be checked in at a place designated by Fort Knox authorities.

(3) Pioneer Weapons Wildlife Management Area. Turkey may be taken with all weapons listed under Section 4, subsection (6) [(7)] except for [, with the exception of breech-loading rifles and] breech-loading shotguns. Crossbows are permitted.

(4) Fort Campbell Wildlife Management Area. Turkey hunting is restricted to persons who purchase a post combination hunting-fishing permit. Hunting spaces are limited by training priorities and are assigned on a first-come first-served basis. Those wanting to turkey hunt must apply in person twenty-four (24) hours prior to day of hunt at building 6645. For more information call Area Code 502 798-2413, 3293 or 7393 at Fort Campbell. Turkey may be taken with all weapons listed under Section 4, subsection (6), of this regulation.

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman

ADOPTED: December 10, 1978

APPROVED: WILLIAM SHORT, Secretary

RECEIVED BY LRC: December 27, 1978 at 11:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION Office of Transportation Planning (Proposed Amendment)

602 KAR 50:010. Definitions.

RELATES TO: KRS 183.861 to 183.990

PURSUANT TO: KRS 13.082, 183.861

NECESSITY AND FUNCTION: To define certain terms used in the regulations of the Kentucky Airport Zoning Commission.

Section 1. Administrative Terms. (1) "Administrator" means the Administrator of the Kentucky Airport Commission or any individual to whom he has delegated his authority in the matter concerned.

(2) "Commission" means the Kentucky Airport Zoning Commission created pursuant to KRS 183.861 to 183.990.

(3) "Local zoning body" means an independent, joint or regional planning commission or any local government

which is a member of a planning unit created pursuant to KRS Chapter 100.

Section 2. Zoning Terms. (1) "Airport" as used in these regulations, means any area of land or water operated or constructed by an airport board or other governmental agency located within the Commonwealth which is designed for the landing and taking-off of aircraft, and any appurtenant areas used, or intended for use, for airport building, facilities, or rights of way, and all airport buildings and facilities located thereon; including, but not limited to, runways, taxiways, aircraft ramps, terminal and cargo buildings, gates, hangars, shops, service buildings, automobile parking, motels, restaurants, retail and wholesale stores, banks, automobile service facilities and garages, and entrance and service roads used or useful in connection with or as a part of the airport.

(2) "Jurisdictional surface" means that surface extending from the periphery of the airport reference points as established on the zoning map and extending outward and upward therefrom at a slope and horizontal distance as defined in these regulations.

(3) "Zoned airspace" means that airspace within the primary approach surface and above the conical surface [above the jurisdictional surface] in which zoning jurisdiction is assumed by these regulations.

(4) "Reference point" for each runway means that point as depicted on the airport map at the end of each runway as presently exists or as depicted on the airport master plan or as proposed to be extended in a letter of intent on file with the Federal Aviation Administration, all of which shall have reasonable assurance of completion. The elevation [height] of each reference point shall in all cases be its height above sea level.

(5) "Runway" means the surface of an airport used for landing and taking off of aircraft as depicted on the airport zoning map and airport master plan.

(6) "Obstruction" means any structure, object of natural growth, or use of land which protrudes into the zoned airspace as herein defined or a height of over 200 feet above the ground level or water level of all waters within the Commonwealth of Kentucky.

(7) "Navigable airspace" means air space above the minimum safe altitudes of flight prescribed by the regulations of the federal aviation administration [agency] FAR Part 91.79 or department consistent therewith, and includes the air space necessary for normal landing or taking off of aircraft.

(8) "Primary approach surface" means the area as depicted on Airport Zoning Maps with the horizontal distance beginning at the width of the primary surface and extending outward to a point where the prescribed approach slope intersects the horizontal surface.

(9) "Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of 4,000 feet.

(10) "Horizontal surface" means a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc referred to above is:

(a) 5,000 feet for all runways designated as utility or visual;

(b) 10,000 feet for all other runways. The radius of the arc specified for each end of a runway will have the same

arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two (2) adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

Section 3. General Definitions. (1) "Person" means any individual, firm, partnership, corporation, company, association, or body politic, and includes any trustee, receiver, assignee or other similar representative thereof.

(2) "Structure" means any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, and overhead transmission lines, and objects of natural growth whether temporary or permanent.

(3) "Body politic" means the Commonwealth of Kentucky and its agencies, or any instrumentality of the state government, county or city government.

(4) "Alter a structure" means to increase or decrease the height of a structure or change the visibility of a structure by painting, marking or lighting the structure in a manner different from the painting, marking, and lighting standards set forth in the regulations of the commission.

Section 4. Airport Master Plan. As used in the regulations of the commission "Airport Master Plan" or "airport map" means the basic plan for the layout of a public airport that shows as a minimum:

(1) The present boundaries of the airport and of the off-site area that the owner of a public airport owns or controls for airport purposes, and of their proposed additions;

(2) The location and nature of existing and proposed airport facilities (such as runways, taxiways, aprons, terminal buildings, hangars, and roads) and of their proposed modification and extensions; and,

(3) The location of existing and proposed non-aviation areas, and of their existing improvements.

(4) An owner of an existing or proposed public airport may file a copy of its airport layout plan prepared under Part 151 of the Federal Aviation Regulations that has been approved by the FAA in lieu of an airport master plan or airport map.

Section 5. Definitions Relating to Permits. (1) "Permits" means the approval of an Application for A Permit to Alter or Construct A Structure by the administrator of the commission pursuant to the regulations of the commission.

(2) "Airport land use permit" means the approval by order of the commission of a request by a public airport to change a use or activity within an airport which is otherwise prohibited by the regulations of the commission.

Section 6. [(1)] "Aeronautical study" means that [the administrator conducts the "aeronautical" study] of the effect of the proposed construction or alteration of a structure upon the operation of air navigation facilities and the safe and efficient utilization of the navigable airspace. [This study may include the physical and electromagnetic radiation effect the proposal may have on the operation of an air navigation facility.]

[(2) To the extent considered necessary the administrator:]

[(a) Solicits comments, in writing, from all interested persons, including but not limited to, the manager or chief executive officer of the airport, the airport board, the chief executive of the city and the county judge of the units of local government that appoint the airport board;]

[(b) Explores objections to the proposal and attempts to

develop recommendations for adjustments of aviation requirements that would accommodate the proposed construction or alteration;]

[(c) Examines possible revisions of the proposal that would eliminate the exceeding of standards in the regulations of the commission;]

[(d)The administrator issues a recommendation to the commission as to whether the proposed construction or alteration would be a hazard to air navigation and sends copies to all known interested persons;]

[(e)If the applicant revises his proposal to eliminate exceeding of the standards of the regulations of the commission or withdraws it, the administrator terminates the study and notifies all known interested persons and the commission.]

E. B. GAITHER, Transportation Planning Engineer
ADOPTED: December 13, 1978

APPROVED: CALVIN G. GRAYSON, Secretary
RECEIVED BY LRC: December 29, 1978 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Ed W. Hancock, Deputy Secretary for Legal Affairs,
Department of Transportation, State Office Building,
Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Office of Transportation Planning
(Proposed Amendment)

602 KAR 50:030. Jurisdiction of commission.

RELATES TO: KRS 183.861, 183.865, 183.867

PURSUANT TO: KRS 13.082, 183.861

NECESSITY AND FUNCTION: To define the areas over which the Kentucky Airport Zoning Commission assumes jurisdiction for the purpose of zoning in accordance with the statutes.

Section 1. The commission assumes zoning jurisdiction over that airspace over and around the public airports within the Commonwealth which lies above the conical surface which shall extend outward and upward at a slope of 100 to one (1) from the peripheral of the reference points for each runway, as depicted on the Airport Zoning Map, for a horizontal distance of 20,000 feet, and thereafter at a slope of thirty (30) to one (1) for a horizontal distance of 24,000 feet.

Section 2. The commission assumes zoning jurisdiction over the use of land and structures within public airports within the state.

Section 3. The commission [recognizes that it has the power to] assumes jurisdiction over the use of land and structures around airports notwithstanding the provisions of KRS Chapters 100 and 147.

Section 4. The commission assumes jurisdiction from the ground upward within the limits of the primary ap-

proach surface as depicted on Airport Zoning Maps approved by the Kentucky Airport Zoning Commission.

E. B. GAITHER, Transportation Planning Engineer
ADOPTED: December 13, 1978

APPROVED: CALVIN G. GRAYSON, Secretary
RECEIVED BY LRC: December 29, 1978 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Ed. W. Hancock, Deputy Secretary for Legal Affairs,
Department of Transportation, State Office Building,
Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Office of Transportation Planning
(Proposed Amendment)

602 KAR 50:070. Navigable airspace outside conical [zoned] surface construction permit.

RELATES TO: KRS 183.870

PURSUANT TO: KRS 13.082, 183.861

NECESSITY AND FUNCTION: To regulate the heights of structures in the [navigable] airspace of the Commonwealth for the benefit of the safety of aircraft and the public.

Section 1. No person shall construct or alter any existing structure above the ground level or the surface of open water in that remaining [navigable] airspace of the state outside the *conical surface* [zoned airspace] that exceeds: 200 feet in height above ground level, or fifty (50) feet in height above the surface of open water of the *Ohio River, Mississippi River, Kentucky Lake, Lake Barkley, Lake Cumberland, and 200 feet above all other waters*, unless the persons who intend to construct or alter such a structure obtain a permit from the commission in accordance with the procedures set forth in the regulations of the commission.

Section 2. The commission shall consider the factors set forth in KRS 183.870(1) in approving or disapproving an application for the issuance of a permit under Section 1.

E. B. GAITHER, Transportation Planning Engineer
ADOPTED: December 13, 1978

APPROVED: CALVIN G. GRAYSON, Secretary
RECEIVED BY LRC: December 29, 1978 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Ed W. Hancock, Deputy Secretary for Legal Affairs,
Department of Transportation, State Office Building,
Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Office of Transportation Planning
(Proposed Amendment)

602 KAR 50:100. Marking and lighting obstruction standards.

RELATES TO: KRS 183.861 to 183.990

PURSUANT TO: KRS 13.082, 183.861

NECESSITY AND FUNCTION: To describe the standards for the marking and lighting of obstructions as of-

ficial policy of the Kentucky Airport Zoning Commission in order to provide the most effective means of indicating the presence of obstructions to pilots, in accordance with the commission's responsibility to promote the safety of air commerce.

Section 1. (1) The Advisory Circular No. 70/7460 [-1D dated April 18, 1975] *latest revision*, Obstruction Marking and Lighting, issued by the Federal Aviation Administration, is hereby adopted and incorporated by reference, except as otherwise provided in the regulations of the commission.

(2) The above mentioned material has been published by Federal Aviation Administration and may be obtained from the Administrator, Kentucky Airport Zoning Commission, Frankfort, Kentucky 40601.

Section 2. Every person who is issued a permit to alter or construct a structure, *or who maintains an obstruction as defined in 602 KAR 50:010*, is required to mark and light the structure in accordance with the applicable standards described in Section 1 above, unless the commission determines that the absence of such marking and lighting will not impair the safety of air navigation.

Section 3. The determination that the absence of marking and lighting of a structure will not impair the safety of air navigation shall not be made by the commission unless the applicant for a permit to alter or construct a structure requests such a determination at the time of filing of an application. Otherwise, the marking and lighting standards described in Section 1 shall be mandatory.

E. B. GAITHER, Transportation Planning Engineer
ADOPTED: December 13, 1978

APPROVED: CALVIN G. GRAYSON, Secretary

RECEIVED BY LRC: December 29, 1978 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Ed W. Hancock, Deputy Secretary for Legal Affairs,
Department of Transportation, State Office Building,
Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration
(Proposed Amendment)

703 KAR 2:020. Calendar.

RELATES TO: KRS 2.110, 2.190, 18.350, 158.060, 158.070

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation is necessary for efficient management, control and operation of schools and to assure uniformity in the days all schools are in session.

Section 1. On or before *June 15* [August 1] of each year, local boards of education shall, upon recommendation of the superintendent, adopt a school calendar fixing the opening and closing dates of each school month, designating the dates of school days within each school month and describing the school days on which schools will be dismissed in accordance with State Board for

Elementary and Secondary [of] Education regulations. This section shall apply to all local boards of education operating experimental or year-round school programs.

Section 2. Each local board of education shall, on or before *July 1* [August 15] of each year, file a copy of the adopted school calendar with the Department of Education for approval as to the compliance with these regulations. No district shall be paid any installment of its Foundation Program allotment until the school calendar for that district has been so approved.

Section 3. A local board of education may amend its school calendar upon recommendation of the superintendent within the limitations of pertinent State Board for *Elementary and Secondary* [of] Education regulations.

Section 4. All amendments to school calendars shall be submitted on the appropriate form to the Department of Education for approval as to compliance with these regulations prior to the date of change in the existing school calendar except:

(1) In cases of emergency beyond the control of a local board of education, post approval of an amendment may be requested; and

(2) *If schools are closed prior to March 1 due to a national, state, or local disaster or mourning as provided by KRS 158.070(3)(a) and (b), an amendment shall be submitted on or before March 1. If the disaster occurs on March 1, or thereafter, the amendment shall be submitted on or before the first day of the succeeding month.* [All amendments for a change in the school calendar due to national, state, or local disaster or mourning as authorized by KRS 158.070(3)(a) and (b) shall be submitted to the State Department of Education no later than ten (10) days after the first regular meeting of the local board of education following the occurrence of the event necessitating the requested change in the school calendar.]

Section 5. The school calendar shall provide for the same number of days of classroom instruction in all schools operated by a local board of education.

Section 6. The four (4) days on which schools may be dismissed for holidays as provided for in KRS 158.070 shall be selected from those listed in KRS 2.110, 18.350 and 158.070 subject to the provisions of such sections, except in presidential election years the day of the regular election must be used as one of the allowable holidays.

Section 7. Local boards of education may use one (1) day of the minimum school term for the opening of schools and one (1) day for the closing of schools without the presence of pupils.

Section 8. Local boards of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils. Proper approval for these four (4) days shall be secured from the State Department of Education.

[Section 9. If the schools are closed under the provisions of KRS 158.070(3)(b) the days lost shall be made up unless the school calendar includes more than 175 days of actual classroom instruction or the State Board of Education determines that the loss of days taught below the

minimum of 175 days were due to major catastrophes which cause destruction of the school plant.]

Section 9. [10. The number of days schools are dismissed shall not exceed fifteen (15) days in the 185 day school term.] If local boards of education do not dismiss schools for four (4) holidays, one (1) day for opening schools, and one (1) day for closing schools as provided by KRS 158.070(3), the number of days of actual classroom instruction shall be increased accordingly.

Section 10. [11.] The two (2) consecutive days schools are required to be closed for the purpose of permitting professional school employees to attend state-wide professional meetings and the one (1) day for regional or district professional meetings shall not be counted as a part of the minimum school term. The Superintendent of Public Instruction will approve dates which have been selected by the local boards of education for regional or district meetings.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: December 19, 1978

RECEIVED BY LRC: January 9, 1979 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 15:010. Accreditation of institutions.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.025 establishes a process for developing standards and procedures for the approval of college and university programs for the preparation of professional school personnel. This regulation establishes a procedure for evaluating the college and university programs in terms of the standards for teacher preparation as established by the Kentucky Council on Teacher Education and Certification and adopted by the State Board [of] for *Elementary and Secondary Education*.

Section 1. (1) All institutions of higher education offering curricula for the preparation of school personnel shall be regularly evaluated by the Superintendent of Public Instruction or his representatives to determine whether such institutions are meeting the requirements of law, the regulations of the State Board [of] for *Elementary and Secondary Education*, and standards recommended by the Kentucky Council on Teacher Education and Certification and adopted by the State Board [of] for *Elementary and Secondary Education*.

(2) An institution of higher education which meets the prescribed standards for teacher preparation as determined through the evaluation process shall be recommended by the Superintendent of Public Instruction for approval by the State Board [of] for *Elementary and Secondary Education* as a state accredited teacher education institution.

(3) For the evaluation of teacher education institutions the Superintendent of Public Instruction shall use the standards of the National Council for the Accreditation of Teacher Education and of the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(4) The Division of Teacher Education and Certification of the State Department of Education shall be authorized to appoint an advisory committee or committees to assist in developing standards and criteria to be used in evaluating teacher education programs and to appoint committees to participate in the evaluation of teacher education programs.

(5) Teacher education institutions offering approved programs for certification at the graduate level shall be accredited for graduate study by the regional accrediting association as well as by the State Board [of] for *Elementary and Secondary Education*.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 15:020. Curricula; evaluation and approval.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.025 and 161.030 establish the processes for prescribing teacher preparation curricula. This regulation establishes the process for insuring that the curricula offered by the teacher education institutions meet the requirements as prescribed by the Kentucky Council on Teacher Education and Certification and adopted by the State Board [of] for *Elementary and Secondary Education*.

Section 1. (1) Each college or university accredited by the State Board [of] for *Elementary and Secondary Education* for the preparation of professional school personnel shall submit each proposed teacher preparation curriculum on forms prepared by the Superintendent of Public Instruction.

(2) The Superintendent of Public Instruction shall evaluate each proposed curriculum in terms of the Ken-

tucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(3) The Superintendent of Public Instruction shall recommend each acceptable curriculum to the State Board [of] for *Elementary and Secondary* Education for approval. Upon approval by the State Board [of] for *Elementary and Secondary* Education the teacher preparation curriculum shall become the basis for the institutional recommendation to the State Department of Education for the issuance of the teacher certification corresponding to that curriculum.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:005. Kentucky plan for preparation program approved.

RELATES TO: KRS 161.20, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board for Elementary and Secondary Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes the standards and procedures which are to be used for the approval of the various teacher preparation programs offered by the colleges and universities.

Section 1. Pursuant to the statutory authority placed upon the Superintendent of Public Instruction, the State Board for Elementary and Secondary Education, and the Kentucky Council on Teacher Education and Certification under KRS Chapter 161, there is hereby devised, created, and incorporated by reference a Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel which shall include the standards and procedures for the approval of college and university curricula for the preparation of professional school personnel for purposes of teacher certification as prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board for

Elementary and Secondary Education. The Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel shall be published by the Superintendent of Public Instruction and copies furnished upon request directed to his office.

Section 2. The Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel is amended by the selective revision of certain standards, the deletion of certain standards, and by the addition of other new standards and the amended document is hereby incorporated by reference and identified as the Kentucky State Plan for the Approval of Preparation Programs for the Preparation of Professional School Personnel, *Revised November, 1978* [for 1977-78].

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:060. Renewals.

RELATES TO: KRS 161.020, 161.025, 161.030 [161.035]

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020 [(3) and 161.035] safeguards the validity of certificates previously issued from any impairment arising from later changes in certification provisions. This regulation continues and preserves the legislative intent for certificates issued subsequent to these acts and also establishes certificate renewal provisions for certain unusual circumstances.

Section 1. The validity of any certificate for professional school personnel which has been issued under the authority of the Kentucky State Board [of] for *Elementary and Secondary* Education shall not be impaired by the repeal or revision of the certification requirements and such certificate may continue to be renewed in accordance with the provisions in effect at the date of the issuance of such certificate.

Section 2. When the renewal of any provisional teaching certificate requires the completion of additional academic course work in lieu of teaching experience, the credits shall be selected from the planned fifth year program.

Section 3. The following classes of certificates originally issued for three (3), four (4), and five (5) year periods

may be renewed for ten (10) year periods upon completion of the respective renewal requirements: Provisional and standard elementary and secondary teaching certificates when the holder has a bachelor's degree; librarian certificates; and special education certificates.

Section 4. Regular certificates may be reinstated for one (1) time only for one (1) year upon recommendation by the employing school superintendent upon completion of at least one-third ($\frac{1}{3}$) of the renewal requirements. The remainder of the renewal requirements shall be completed within the one (1) year period of reinstatement.

Section 5. (1) Experience in the armed forces of the United States of America may be accepted toward the renewal of teaching certificates in lieu of required teaching experience provided the applicant held a valid certificate prior to entering military service.

(2) The validity period of a certificate held by a person at the time of entry into the armed forces of the United States of America shall be extended for the same period of time for which it was valid at the time of entry, beginning from the date of discharge.

Section 6. For certificates requiring teaching experience for renewal experience as a substitute teacher may be accepted if the holder of the certificate was employed officially by the local board of education, was paid through the board of education, and substituted no less than thirty (30) teaching days distributed over two (2) semesters of a regular school term.

Section 7. The Superintendent of Public Instruction shall approve the types of experiences which may be accepted under the law and regulations of the State Board [of] for *Elementary and Secondary Education* in renewing certificates.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:065. Standard high school certificate.

RELATES TO: KRS 161.020, 161.025, 161.030
[161.035]

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020,
161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued

upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] for *Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The standard high school certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] for *Elementary and Secondary Education* regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The standard high school certificate shall be issued initially for a duration period of ten (10) years except that when the curriculum requirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon three (3) years of successful teaching experience performed under a regular teaching certificate and completed prior to the expiration of the standard certificate. If the requirements for life extension have not been completed by the end of each ten (10) year period, the certificate may be renewed at the end of each ten (10) year period upon completion of two (2) years of successful teaching experience or upon six (6) semester hours graduate credit for each of the years required experience.

(3) The standard high school certificate shall be valid for teaching in grades seven (7) through twelve (12).

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:070. Provisional high school certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020,
161.025, and 161.030 require that teachers and other pro-

professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board for Elementary and Secondary [of] Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional high school certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board for Elementary and Secondary [of] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional high school certificate shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional high school certificate shall be valid for teaching in grades seven (7) through twelve (12).

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:075. Secondary school level on elementary certification.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by

the Kentucky Council on Teacher Education and Certification and approved by the State Board for Elementary and Secondary [of] Education. This regulation provides a means by which a person who is qualified for teaching at the elementary school level may become qualified also for the high school level.

Section 1. An endorsement for teaching at the secondary school level shall be issued to an applicant who holds a certificate valid for classroom teaching at the elementary school level, and who has completed a course in the fundamentals of secondary education and a secondary teaching major or minor as attested by the preparing institution and selected only from the secondary teaching specialties currently recognized for high school certification.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:085. Standard elementary certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] for Elementary and Secondary Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The standard elementary certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] for Elementary and Secondary Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The standard elementary certificate shall be issued initially for a duration period of ten (10) years except that when the curriculum requirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon three (3) years of successful teaching experience performed under a regular teaching certificate and completed prior to the expiration date of the standard certificate. If the requirements for life extension have not been completed by the end of the ten (10) year period, the certificate may be renewed at the end of each ten (10) year period upon completion of two (2) years of successful teaching experience or upon six (6) semester hours graduate credit for each of the years required experience.

(3) The standard elementary certificate shall be valid for teaching in grades one (1) through eight (8).

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:090. Provisional elementary certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board *for Elementary and Secondary* [of] Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional elementary certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board *for Elementary and Secondary* [of] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in

the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional elementary certificate shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional elementary certificate shall be valid for teaching in grades one (1) through eight (8).

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:095. Elementary level on high school certification.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary* Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. An endorsement for classroom teaching at the elementary school level shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary* Education regulations to an applicant who holds a certificate valid for classroom teaching at the high school level and who has completed the approved program of preparation for the elementary endorsement at a teacher education institution approved under the standards and procedures included in the Ken-

tucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:100. Administrators and supervisors.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, 161.030, require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The professional certificate for school administration and supervision shall be issued in accordance with the pertinent Kentucky statutes and state board [of] *for Elementary and Secondary education* regulations to an applicant who has completed the approved program of preparation for one of the school leadership positions—elementary school principal, middle school-junior high school principal, secondary school principal, *supervisor of instruction*, director of pupil personnel or school superintendent—at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The professional certificate for school administration and supervision shall be endorsed for the specific position for which the program of preparation has been completed. Once the certificate has been issued and endorsed for one (1) position it may be further endorsed for any of the other school leadership positions upon completion of the corresponding program of preparation. The profes-

sional certificates for school administration and supervision may also be endorsed to show other programs of preparation-certification for which the holder is qualified.

(3) As a prerequisite to the issuance of the professional certificate for school administration and supervision with an endorsement for the position of school superintendent the applicant shall have completed five (5) years successful school teaching and/or school administrative experience. As a prerequisite to the issuance of the certificate with an endorsement for any of the other school leadership positions the applicant shall have completed three (3) years of successful teaching experience.

(4) The duration of the professional certificate for school administration and supervision shall be for continuing service.

Section 2. The professional certificate for school administration and supervision, endorsed for secondary school principal, may be endorsed for a one (1) year period for the position of elementary school principal upon completion of at least eight (8) semester hours graduate credit selected from the endorsement curriculum and upon recommendation from the superintendent of the local district in which the applicant is to be employed as an elementary school principal. The endorsement may be extended for subsequent years upon completion of at least six (6) semester hours graduate credit annually until the total program has been completed.

Section 3. The older type certificates which are still in force and valid for the position of secondary school principal may be endorsed for the position of elementary school principal in accordance with the same provisions outlined in Section 2 of this regulation.

Section 4. Persons holding a valid certificate for principalship, supervision, or superintendency issued under the curricula in effect prior to September, 1970, shall not be required to hold a standard teaching certificate as a prerequisite to qualify for any of the administrative endorsements for the professional certificate for school administration and supervision.

JAMES B. GRAHAM

Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET
Department for Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:110. Business administrators.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, 161.030 require that teachers and other profes-

sional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The standard certificate for school business administrator shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has had at least two (2) years successful experience in government, business, or education as required for provisional certification and in addition has completed three (3) years experience as a school business administrator and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The duration period for the standard certificate for school business administrator shall be for continuing service.

Section 2. (1) The provisional certificate for school business administrator shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has a bachelor's degree and at least two (2) years successful experience in government, business, or education and who has completed at least eighteen (18) semester hours credit selected from the curriculum required for the standard certificate and in accordance with the program requirements of the preparing institution.

(2) The provisional certificate for school business administrator will be issued on the condition that upon employment in the position the holder will participate fully in the work conference held by the State Department of Education as in-service education.

(3) The provisional certificate shall have a duration period of four (4) years and will be subject to renewal once upon completion of eight (8) semester hours credit selected from the curriculum for the standard certificate.

JAMES B. GRAHAM

Superintendent of Public Instruction

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Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:115. Driver education.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. An endorsement for teaching driver education shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who holds a provisional or standard teaching certificate and who has completed the approved program of preparation for the driver education endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

JAMES B. GRAHAM

Superintendent of Public Instruction

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for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:130. Guidance counselors.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon com-

pletion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) An endorsement as provisional certification for the position of guidance counselor shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who holds certification as an elementary or secondary teacher and has completed at least one (1) year of full-time classroom teaching experience and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The endorsement as provisional certification for the position of guidance counselor shall be valid for the same grade levels as the teaching certificate used as the base for the endorsement. Applicants using an elementary school certificate as the base shall follow the curriculum emphasis provided for the elementary level and applicants using a secondary teaching certificate as the base shall follow the curriculum emphasis provided for the secondary level as provided in the state plan.

(3) The endorsement as provisional certification for the position of guidance counselor shall have a duration period of five (5) years and may be renewed upon completion of a minimum of eight (8) semester hours of graduate credit every five (5) years selected from the program leading to the standard guidance certificate.

Section 2. (1) The standard guidance certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed at least one (1) year of experience as a full-time guidance counselor with provisional certification as a guidance counselor and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The duration period for the standard guidance certificate shall be for continuing service.

Section 3. Certification for the position of guidance counselor issued prior to September 1, 1970, and based on preparation programs described under 42.380 of former regulations may be renewed under the following provisions:

(1) Provisional certification issued initially for a period of ten (10) years may be renewed for each ten (10) year period on the basis of three (3) years experience as a guidance counselor.

(2) Provisional certification issued initially for a period of ten (10) years may be renewed for the next five (5) year period on three (3) years experience as a teacher or as a guidance counselor completed during the ten (10) years of initial issuance; for each five (5) year renewal period thereafter a minimum of eight (8) semester hours graduate credit shall be required selected from a program leading to the standard guidance certificate.

JAMES B. GRAHAM
Superintendent of Public Instruction

ADOPTED: November 21, 1978

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for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:135. Kindergarten teachers.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. An endorsement for teaching kindergarten shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who holds a certificate valid for classroom teaching at the elementary school level and who has completed the approved program of preparation for the kindergarten endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 2. (1) The provisional certificate for kindergarten teaching shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for*

Elementary and Secondary Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for kindergarten teaching shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience at the kindergarten level on a regular certificate and upon completion of the planned fifth-year program.

(3) The provisional certificate for kindergarten teaching shall be valid for teaching only at the kindergarten level.

(4) Teacher education institutions shall not admit new students to the program for preparation for the provisional certificate for kindergarten teaching during the 1976-77 academic year or thereafter. Teacher candidates currently enrolled in this program prior to the 1976-77 academic year shall have until September 1, 1980, to complete the requirements. All the provisions of Section 2. of this regulation shall expire on September 1, 1980.

Section 3. The certificates issued for a duration period beginning prior to September 1, 1971, and valid for classroom teaching at the elementary school level, shall continue to be valid for teaching kindergarten. Certificates issued for a duration period beginning after September 1, 1971, and valid for classroom teaching at the elementary school level, shall be valid for teaching kindergarten only upon completion of the endorsement program for kindergarten teaching.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:140. Librarians.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certifica-

tion and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. A Certificate that is valid for classroom teaching at the high school level may be endorsed for the position of high school librarian upon completion of the approved program of preparation which corresponds to this endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel. When endorsed for the position of high school librarian the certificate may be further endorsed for the position of elementary school librarian upon completion of at least six (6) semester hours credit including the teaching of reading and the elementary school curriculum.

Section 2. A certificate that is valid for classroom teaching at the elementary school level may be endorsed for the position of elementary school librarian upon completion of the approved program of preparation which corresponds to this endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel. When endorsed for the position of elementary school librarian the certificate may be further endorsed for the position of high school librarian upon completion of a course dealing with the secondary school curriculum.

Section 3. (1) The standard certificate for school librarianship, valid for the position of high school librarian, shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed the approved programs of preparation for the provisional high school certificate and for the standard certificate for school librarianship at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel. The standard certificate for school librarianship, valid for the position of high school librarian, may be further endorsed for the position of elementary school librarian upon completion of at least six (6) semester hours credit including the teaching of reading and the elementary school curriculum.

(2) The standard certificate for school librarianship, valid for the position of elementary school librarian, shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed the approved programs of preparation for the provisional elementary certificate and for the standard certificate for school librarianship at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional

School Personnel. The standard certificate for school librarianship, valid for the position of elementary school librarian, may be further endorsed for the position of high school librarian upon completion of a course dealing with the secondary school curriculum.

(3) The standard certificate for school librarianship shall be issued initially for a duration period of ten (10) years and shall be extended for life upon three (3) years of successful experience as a teacher or librarian on a regular certificate completed prior to the expiration of the certificate. If the requirements for life extension have not been completed by the end of the ten (10) year period, the certificate may be renewed at the end of each ten (10) year period upon completion of two (2) years of successful experience as a teacher or librarian or upon six (6) semester hours graduate credit for each of the years required experience.

Section 4. Persons enrolled for any of the school librarian preparation programs described in this regulation prior to the 1975-76 school term must complete the entire program by September 1, 1979, in order to qualify for certification. Persons intending to prepare for a professional position relating to school library services and beginning the program of preparation during the 1975-76 school term or thereafter shall follow the program of preparation-certification for the position of school media librarian or school media specialist.

JAMES B. GRAHAM

Superintendent of Public Instruction

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board
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EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:145. Media librarians.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] for *Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and

relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for school media librarian shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] for *Elementary and Secondary Education* regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for school media librarian shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful experience as a media librarian within the duration period of the certificate and upon completion of the planned fifth year program.

(3) The provisional certificate for school media librarian shall be valid for serving as media librarian in grades kindergarten through grade twelve (12).

Section 2. The program of preparation for the provisional certificate for school media librarian shall become effective for persons intending to prepare for a position of professional school library services and who begin in the preparation program during the 1975-76 school term and thereafter.

JAMES B. GRAHAM

Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:150. Media specialists.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] for *Elementary*

and Secondary Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The standard certificate for school media specialist shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The standard certificate for school media specialist shall be issued initially for a duration period of ten (10) years except that when the curriculum requirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon three (3) years of successful experience as a school media librarian or as a school media specialist completed prior to the expiration of the certificate. If the holder fails to meet the requirements for life extension by the end of the ten (10) year period the certificate may be renewed for another ten (10) year period on the basis of two (2) years of experience as a school media librarian or as a school media specialist or on the basis of four (4) semester hours additional graduate credit for each of the years of required experience.

(3) The standard certificate for school media specialist may be endorsed to include the qualifications for school media librarian and shall be valid for serving as a school media librarian or as a school media specialist.

JAMES B. GRAHAM

Superintendent of Public Instruction

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:155. Media supervisors.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other pro-

fessional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The professional certificate for media supervisor shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed three (3) years of successful experience in school media-library services while holding a certificate valid for such experience and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The duration of the professional certificate for media supervisor shall be for continuing service.

(3) The professional certificate for media supervisor shall be valid for the supervision of media-library services in all grades, kindergarten through grade twelve (12).

JAMES B. GRAHAM

Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:165. Newly created positions.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020 requires appropriate certification for each professional school position; however, new positions are often created in advance of the establishment of a state-wide certification program for the position. This regulation empowers the Superintendent of Public Instruction to determine interim qualifications until such time as a certification program is designed for the position in question.

Section 1. The Superintendent of Public Instruction shall be authorized to determine the qualifications and cer-

tification requirements for positions in which no program of preparation-certification has yet been established by the Kentucky State Board [of] *for Elementary and Secondary Education*.

JAMES B. GRAHAM

Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:175. Physical education at elementary level
on high school certification.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. An endorsement for teaching physical education at the elementary school level, grades K-8, shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who holds a certificate valid for teaching physical education at the high school level and who has completed the approved program of preparation for the elementary physical education endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 2. A one (1) year endorsement may be made upon completion of at least six (6) semester hours credit selected from the endorsement plan; subsequent one (1)

year endorsements may be made upon completion of six (6) semester hours additional credit selected from the endorsement plan.

JAMES B. GRAHAM

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EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:180. Reading specialists.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The endorsement for reading specialist shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who holds a teaching certificate based upon the completion of a four (4) year program of preparation, who has completed at least three (3) years of successful classroom teaching experience which may include one (1) year of equivalent clinical experience, and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The endorsement for reading specialist shall be valid for the same teaching level as the teaching certificate used

as a base for the endorsement and shall have the same duration period as the base certificate.

JAMES B. GRAHAM
Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:185. Psychometrists.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) Certification for school psychometrist shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) Certification for school psychometrist shall be issued initially for a duration period of five (5) years and may be renewed for subsequent five (5) year periods upon completion within each period of two (2) years experience as a school psychometrist. If any portion of the renewal experience is not completed, the certificate may be renewed upon completion of six (6) semester hours of additional

graduate credit appropriate for the position of school psychometrist.

JAMES B. GRAHAM
Superintendent of Public Instruction

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:190. Rehabilitation counselors.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The standard certificate for rehabilitation counselors shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed the approved programs of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The standard certificate for rehabilitation counselors shall be issued initially for a duration period of three (3) years. Subsequent renewals shall be made for a duration period of ten (10) years each, upon completion of three (3) years of successful experience within each duration period.

Section 2. (1) The provisional certificate for rehabilitation counselors shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has a bachelor's degree in an academic field relating to

the assignment, as determined by the Bureau of Rehabilitation Services.

(2) The provisional certificate shall have a duration period of two (2) years and shall be renewed for a ten (10) year period upon completion of the agency regional counselor induction training program consisting of six (6) weeks intensive classroom experience plus six (6) weeks supervised field practice and/or other in-service training as recommended and conducted by the State Department of Education, Bureau of Rehabilitation Services. Subsequent ten (10) year renewals shall be made upon the recommendation of the State Department of Education, Bureau of Rehabilitation Services, on the basis of satisfactory performance.

JAMES B. GRAHAM

Superintendent of Public Instruction

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:195. Social workers provisional certification.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional certification for school social worker shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed the approved program of preparation which corresponds to this certification at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certification for school social worker shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. This certification may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional certification for school social worker shall be issued to an applicant who holds a regular teaching certificate for the elementary, middle school, or high school level and who completes eighteen (18) semester hours credit, including supervised practice in school social work, from the curriculum for school social worker emphasizing the social work portion of the program rather than the portion dealing with professional education.

Section 2. Provisional certification for school social worker may be issued for a one (1) year period on the basis of a professional commitment made by the applicant to complete the usual program of preparation at a minimum rate of six (6) semester hours each year provided the applicant holds a bachelor's degree, has completed at least six (6) semester hours credit from the approved curriculum for school social work, and secures an agreement from a prospective employer to adjust the annual work load to provide opportunity for earning the additional college credits on schedule and for participating in the work conferences conducted by the State Department of Education for school social workers.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:198. Special education directors.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board.

This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The endorsement for director of special education shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who holds a provisional certificate for any category of special education, has completed at least three (3) years of experience as a teacher or teacher consultant of which two (2) years are in special education, and who in addition thereto, has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel. The approved program shall consist of forty-eight (48) semester hours credit above the bachelor's degree level and shall include a master's degree or planned fifth year program in special education.

(2) The endorsement for director of special education shall have the same duration period as the base certificate.

JAMES B. GRAHAM
Superintendent of Public Instruction

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:200. Special education supervisors.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. The endorsement for special education supervisor shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who qualifies for certification as a teacher of special education and has completed at least two (2) years of successful experience as a teacher of special education, and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

JAMES B. GRAHAM
Superintendent of Public Instruction

ADOPTED: November 21, 1978

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board
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Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:203. Special education teacher-consultant.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The endorsement for teacher consultant for special education shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who holds a provisional certificate for any category of special education, has completed at least three (3) years experience as a special education teacher or as a teacher consultant, and who in addition thereto, has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved

under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel. The approved program shall consist of thirty-nine (39) semester hours credit above the bachelor's degree level and shall include a master's degree or planned fifth year program in special education.

(2) The endorsement for teacher consultant for special education shall have the same duration period as the base certificate.

JAMES B. GRAHAM

Superintendent of Public Instruction

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:215. Vocational education administrators.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The certificate for administration, supervision, and coordination of vocational education shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has at least two (2) years of teaching experience in a vocational education teaching assignment and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The certificate for administration, supervision, and coordination of vocational education does not of itself qualify the holder for any vocational education position but rather it is designated as one of the several requirements for certain positions of administration, supervision, and coordination as identified in the Kentucky State Plan for Vocational Education.

(3) The duration of the certificate for administration, supervision, and coordination of vocational education shall be for continuing service.

(4) The certificate for administration, supervision, and coordination of vocational education programs may be issued for an initial period of one (1) year upon completion of eight (8) semester hours credit selected from the prescribed curriculum and upon completion of the other non-academic prerequisites. The remaining curriculum requirements shall be completed by September 1 of the calendar year following the year of initial issuance. The certificate may then be renewed for continuing service.

(5) When a qualified person is not available for a critical administrative position, the Superintendent of Public Instruction may approve a one (1) year endorsement of a vocational teaching certificate for the administration, supervision, and coordination of vocational education, provided the application includes a plan of in-service growth and development showing how the applicant and his employer will work toward meeting the full requirements.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

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SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:222. Industrial education teachers.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*. This regulation establishes the qualifications for teachers of industrial education-preparation level.

Section 1. The certificate for vocational education is established for issuance and renewal only for vocational teachers employed by the public schools or by the State Department of Education. The certificate may be issued for any health, technical, or trades and industrial occupational area for which programs may be offered under the Kentucky State Plan for Vocational Education. It is intended that these regulations implement the philosophy of industrial education as adopted by the Kentucky State Board [of] *for Elementary and Secondary Education* in December, 1975, by means of the report "Industrial Education—A Merger of Industrial Arts and Trade and Industrial Education."

Section 2. (1) A certificate for teaching vocational education—industrial education, valid for teaching only the subjects stated on the face of the certificate, shall be issued for a duration period of one (1) year upon completion of the following requirements:

(a) High school graduation or its equivalence determined by evidence of an acceptable score on the general education development test administered by an approved testing center.

(b) Four (4) years of successful and appropriate occupational experience in the area to be taught. Adequacy of work experience shall be determined by the Department of Education. One (1) year of occupational experience shall be equated with 2,000 clock hours. A maximum of one (1) year of the required work experience may be satisfied by completion of an accredited preparatory vocational program for the occupation to be taught.

(c) The completion of three (3) semester hours credit in a foundations course in vocational, industrial, or career education and the completion of three (3) semester hours credit in course construction or curriculum development in vocational industrial education.

(2) The certificate shall be renewed for subsequent one (1) year periods upon completion of a minimum of six (6) semester hours credit for each renewal selected from the sixty-four (64) semester hour planned program for the preparation of vocational teachers in industrial education-preparation level. The certificate shall not be subject to renewal more than ten (10) times. Credit granted for occupational proficiency shall not be applied toward the certificate renewal requirements. As a consequence of extenuating circumstances, such as severe illness or death in the family, which prevent the teacher from meeting the certificate renewal requirements, the Department of Education may authorize a renewal one (1) time without the completion of the additional credits when the circumstances are adequately documented and the situation merits approval.

Section 3. A temporary certificate for vocational education-industrial education may be issued to a person who is initially employed during a school year and who meets the qualifications stated in Section 2(1)(a)(b) above. The certificate shall be issued for a duration period to expire on the next June 30 after issuance and shall not be renewed for full-time instructors.

Section 4. (1) A certificate for teaching vocational education-industrial education, valid for teaching only the subjects stated on the face of the certificate, shall be issued for a duration period of five (5) years upon completion of the following requirements:

(a) The completion of a planned program consisting of a minimum of sixty-four (64) semester hours credit distributed as follows:

1. A general education component consisting of twenty (20) semester hours credit selected from the general education component of teacher preparation.

2. A specialization component consisting of twenty-four (24) semester hours credit selected from the specialization component of the curriculum standards for the provisional high school certificate with an area of concentration in industrial education-preparation level.

3. A professional education component consisting of twenty (20) semester hours credit in professional education to include at least twelve (12) semester hours selected from the professional education component of the curriculum standards for the provisional high school certificate with an area of concentration in industrial education-preparation level.

(b) The completion of four (4) years of occupational experience in the area to be taught or the completion of a minimum of 4,000 hours of supervised work experience.

(2) The certificate shall be renewed for subsequent five (5) year periods upon completion of any combination of two (2) years teaching or work experience in the occupational specialty plus the completion of an additional six (6) semester hours credit from an approved industrial education program. An additional three (3) semester hours credit may be substituted for any year of renewal experience which may be lacking.

Section 5. A certificate for a vocational education specialist, valid for teaching the specific subject stated on the face of the certificate, shall be issued for a duration period of one (1) year upon the basis of a determination made by the Department of Education that the individual has unique knowledge or experience or special preparation that qualifies the person to be outstanding in the vocational subject to be taught.

Section 6. A certificate for vocational education, valid for a part-time or short-term assignment, and for teaching the specific subject stated on the face of the certificate, shall be issued for a duration period of one (1) year on the basis of high school graduation or its equivalence and four (4) years of responsible work experience in the occupation to be taught.

JAMES B. GRAHAM

Superintendent of Public Instruction

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:230. Hearing impaired; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board for Elementary and Secondary Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—hearing impaired shall be issued in accordance with the pertinent Kentucky statutes and State Board for Elementary and Secondary Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for teachers of exceptional children—hearing impaired shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional certificate for teachers of exceptional children—hearing impaired shall be valid at any grade level for the instruction of exceptional children who are hearing impaired and [shall be endorsed] as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4) The provisional certificate for teachers of exceptional children—hearing impaired shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each

year after which time the teacher must qualify by having completed the entire curriculum.

JAMES B. GRAHAM
 Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:235. Learning and behavior disorders; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board for Elementary and Secondary Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued in accordance with the pertinent Kentucky statutes and State Board for Elementary and Secondary Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching

experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be valid at any grade level for the instruction of exceptional children with learning and behavior disorders and [shall be endorsed] as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4) The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.

JAMES B. GRAHAM

Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:240. Speech and communication disorders;
teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary Education*; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—speech and communication

disorders shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for teachers of exceptional children—speech and communication disorders shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional certificate for teachers of exceptional children—speech and communication disorders shall be valid at any grade level for the instruction of exceptional children with speech and communication disorders.

JAMES B. GRAHAM

Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:245. Trainable mentally handicapped;
teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board for Elementary and Secondary Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued in accordance with the pertinent Kentucky statutes and State Board for Elementary and Secondary Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be valid at any grade level for the instruction of exceptional children who are trainable mentally handicapped and [shall be endorsed] as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:250. *Severely/profoundly* [multiple] handicapped; teaching endorsement.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020,
161.025, and 161.030 require that teachers and other pro-

fessional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board *for Elementary and Secondary* [of] Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. An endorsement for teaching *severely/profoundly* [multiple] handicapped pupils shall be issued in accordance with the pertinent Kentucky statutes and State Board *for Elementary and Secondary* [of] Education regulations to an applicant who holds certification for *any category of special education* [teaching pupils with learning and behavior disorders or certification for teaching trainable mentally handicapped pupils] and who has completed in addition thereto, the approved program of preparation for the endorsement for teaching *severely/profoundly* [multiple] handicapped pupils at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Elementary and Secondary Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:270. Certification for teachers of exceptional children.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070,
156.160 [156.130]

NECESSITY AND FUNCTION: KRS 161.020,
161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board [of] *for Elementary and Secondary* Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board.

This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The standard certificate for teachers of exceptional children shall be issued in accordance with the pertinent Kentucky statutes and State Board [of] *for Elementary and Secondary Education* regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The standard certificate for teachers of exceptional children shall be issued initially for a duration period of ten (10) years except that when the curriculum requirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon completion of three (3) years of successful teaching experience performed under a regular teaching certificate and completed prior to the expiration of the standard certificate. If the requirements for life extension have not been completed by the end of each ten (10) year period, the certificate may be renewed at the end of each ten (10) year period upon completion of two (2) years of successful teaching experience or upon six (6) semester hours graduate credit for each of the years required experience.

(3) The standard certificate for teachers of exceptional children shall be valid at any grade for the instruction of exceptional children.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Labor

Occupational Safety and Health Program
(Proposed Amendment)

803 KAR 2:180. Recordkeeping; statistics.

RELATES TO: KRS 338.161

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: Pursuant to the authority granted the Kentucky Department of Labor by KRS 338.161, this regulation provides for recordkeeping and reporting by employers covered under KRS Chapter 338 as necessary and appropriate for the enforcement of KRS Chapter 338, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics.

Section 1. Log and summary of occupational injuries and illnesses. (1) Each employer shall, except as provided in subsection (2) of this section: maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; and enter each recordable injury and illness on the log and summary as early as practicable but not later than six (6) working days after receiving information that a recordable injury or illness has occurred. For this purpose, Occupational Safety and Health Administration OSHA Form No. 200 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used. The log and summary shall be completed in the detail provided in the form and instructions on Form OSHA No. 200.

(2) Any employer may maintain in the log and summary of occupational injuries and illnesses at a place other than the establishment or by means of data-processing equipment, or both, under the following circumstances:

(a) There is available at the place where the log and summary are maintained sufficient information to complete the log and summary to a date within six (6) working days after receiving information that a recordable case has occurred, as required by subsection (1) of this section.

(b) At each of the employer's establishments, there is available a copy of the log and summary which reflects separately the injury and illness experience of that establishment complete and current to a date within forty-five (45) calendar days.

Section 2. Period Covered. Records shall be established on a calendar year basis.

Section 3. Supplementary Record. In addition to the log and summary of occupational injuries and illnesses provided for under Section 1, each employer shall have available at each establishment within six (6) working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration Form OSHA No. 101. Workmen's Compensation, insurance, or other reports are acceptable alternative records if they contain the information required by Form OSHA No. 101. If no acceptable alternative record is maintained for other purposes, Form OSHA No. 101 shall be used or the necessary information shall be otherwise maintained. The Kentucky workmen's compensation form SF-1 is an acceptable alternative record for those employers covered by the Workmen's Compensation Act.

Section 4. Annual Summary. (1) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year's totals from the form OSHA No. 200 and the following information from that form: calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. A Form OSHA No. 200 shall be used in presenting the summary. If no injuries or illnesses occurred in the year, zeroes must be entered on the totals line, and the form must be posted.

(2) The summary shall be completed by February 1 beginning with calendar year 1979. The summary of 1977 calendar year's occupational injuries and illnesses shall be posted on Form OSHA No. 102.

(3) Each employer, or the officer or employee of the employer who supervises the preparation of the log and

summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer or the officer or employee of the employer who supervises the preparation of the annual summary of occupational injuries and illnesses, at the bottom of the last page of the log and summary or by appending a separate statement to the summary certifying that the summary is true and complete.

(4) (a) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under 803 KAR 2:060. The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. For employees who do not primarily report for work at a single establishment, or who do not report to any fixed establishment on a regular basis, employer shall satisfy this posting requirement by presenting or mailing a copy of the summary portion of the log and summary during the month of February of the following year to each such employee who receives pay during that month. For multi-establishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.

(b) A failure to post a copy of the establishment's annual summary may result in the issuance of citations and assessment of penalties pursuant to KRS 338.991.

Section 5. Retention of Records. Records provided for in Section 1, 3, and 4 (including Form OSHA No. 200 and its predecessor Form OSHA No. 100 and OSHA No. 102) shall be retained in each establishment for five (5) years following the end of the year to which they relate.

Section 6. Access to Records. (1) *Each employer shall provide, upon request, records provided for in Sections 1, 3, and 4 [shall be available] for inspection and copying by:*

(a) [(1)] Compliance Safety and Health Officers of the Occupational Safety and Health Program, Kentucky Department of Labor, during an inspection or by other representatives of the Kentucky Commissioner of the Department of Labor authorized to make statistical compilations, pursuant to the authority of KRS Chapter 338;

(b) [(2)] Representatives of the Bureau of Labor Statistics, United States Department of Labor; and

(c) [(3)] Representatives of the Secretary of Health, Education, and Welfare during any investigation under Section 20(b) of the Williams-Steiger Occupational Safety and Health Act of 1970.

(2) *The log and summary of all recordable occupational injuries and illnesses (OSHA No. 200) (the log) provided for in Section 1 shall, upon request, be made available by the employer to any employee, former employee, and to their representatives for examination and copying in a reasonable manner and at reasonable times. The employee, former employee, and their representatives shall have access to the log for any establishment in which the employee is or has been employed.*

(3) *Nothing in this section shall be deemed to preclude employees and employee representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.*

(4) *Access to the log, provided under this section, shall pertain to all logs retained under the requirements of Section 5.*

Section 7. Reporting of Fatality or Multiple Hospitalization Accidents. Within forty-eight (48) hours after the occurrence of an employment accident which is fatal to one (1) or more employees or which results in hospitalization of five (5) or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the Commissioner of the Department of Labor. The reporting may be by telephone or telegraph. The report shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The commissioner may require such additional reports, in writing or otherwise, as he deems necessary concerning the accident.

Section 8. Falsification, or Failure to Keep Records or Reports. (1) KRS 338.991(8) provides that "whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment, for not more than six (6) months or both."

(2) Failure to maintain records or file reports required by this part, or in the details required by forms and instructions issued under this part, may result in the issuance of citations and assessment of penalties as provided for in KRS 338.991.

Section 9. Change of Ownership. Where an establishment has changed ownership, the employer shall be responsible for maintaining records and filing reports only for that period of the year during which he owned such establishment. However, in the case of any change in ownership, the employer shall preserve those records, if any, of the prior ownership which are required to be kept under this part. These records shall be retained at each establishment to which they relate, for the period, or remainder thereof, required under Section 5.

Section 10. Definitions. (1) "Act" means the Kentucky Occupational Safety and Health Act of 1972 (KRS Chapter 338).

(2) The definitions and interpretations contained in KRS 338.015 shall be applicable to such terms when used in this regulation.

(3) "Recordable occupational injuries and illnesses" of employees are:

(a) Occupational fatalities, regardless of the time between injury and death, or the length of the illness (no recording is required for fatalities occurring after termination of employment except when recording may otherwise be required under a standard issued pursuant to KRS 338.051(3) and published in this chapter); or

(b) Occupational illnesses; or

(c) Occupational injuries which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid).

(4) "Medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does include first aid treatment even though provided by a physician or registered professional personnel.

(5) "First aid" is any one-time treatment, and any follow-up visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment,

and follow-up visit(s) for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.

(6) (a) "Establishment." A single physical location where business is conducted or where services or industrial operations are performed. (For example: A factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, or central administrative office.) Where distinctly separate activities are performed at a single physical location (such as contract construction activities operated from the same physical location as a lumber yard), each activity shall be treated as a separate establishment.

(b) For firms engaged in activities such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, records may be maintained at a place to which employees report each day.

(c) Records for personnel who do not primarily report to work at a single establishment, and who are generally not supervised in their daily work, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

Section 11. Petitions for recordkeeping exceptions. (1) Petitions for recordkeeping exceptions shall be filed in accordance with the provisions of 29 CFR Part 1904.13.

(2) Any employer filing a petition for recordkeeping exceptions in accordance with CFR Part 1904.13 shall notify the Commissioner of the Department of Labor that he is making such application and the results thereof;

(3) Exceptions granted pursuant to 29 CFR Part 1904.13 shall be recognized by the commissioner.

Section 12. Employees not in fixed establishments. Employers of employees engaged in physically dispersed operations such as occur in construction, installation, repair or service activities who do not report to any fixed establishment on a regular basis but are subject to common supervision may satisfy the provisions of Section 1, 3, and 4 of this regulation with respect to such employees by:

(1) Maintaining the required records for each operation or group of operations, which is subject to common supervision (field superintendent, field supervisor, etc.) in an established central place;

(2) Having the address and telephone number of the central place available at each worksite; and

(3) Having personnel available at the central place during normal business hours to provide information from the records maintained there by telephone and by mail.

Section 13. Duties of Employer. Upon receipt of an Occupational Injuries and Illnesses Survey Form, the employer shall promptly complete the form in accordance with the instructions contained therein, and return it in accordance with the aforesaid instructions.

Section 14. Small Employers. An employer who had no more than ten (10) employees at any time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this part except the following:

(1) Obligation to report under Section 7 concerning fatalities or multiple hospitalization accidents; and

(2) Obligation to maintain a log and summary of occupational injuries and illnesses under Section 1 and to make reports under Section 13 upon being notified in

writing by the Bureau of Labor Statistics or the Kentucky Department of Labor that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

JAMES R. YOCOM, Commissioner

ADOPTED: December 22, 1978

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: January 12, 1979 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, Kentucky Department of Labor, Occupational Safety and Health Program, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky State Racing Commission (Proposed Amendment)

810 KAR 1:002. Racing commission.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the positions and duties of the commission.

Section 1. Statutory powers of the commission. (1) The commission shall be composed of five (5) members, responsible as a body for the regulation of thoroughbred racing in Kentucky, under the terms defined in KRS 230.210 to 230.360, and other statutes pertaining to thoroughbred racing.

(2) Individual members of the commission may be assigned specific areas of responsibility; and, with the consent of the commission, can act with full authority of the commission in such areas.

Section 2. Commission Secretary. The secretary of the commission shall be appointed by the Governor, for a term not to exceed four (4) years. He shall possess the powers and perform the duties imposed upon him by KRS 230.210 to 230.360, and shall perform such other duties as the commission may direct.

Section 3. Administrative Staff. The following positions and duties compose, with secretary, the administrative staff of the commission:

(1) Senior steward and chief administrator, in overall supervision of all commission matters pertaining to racing.

(2) State steward, responsible for all commission matters at the race meetings to which he is assigned, and for such other duties as may be directed.

(3) Associate steward, who may be assigned by the commission to serve under the state steward as they may direct.

(4) Executive director, responsible under the chief administrator for the administration of commission programs.

(5) Public relations director, responsible for the promotion of the thoroughbred industry in Kentucky.

Section 4. Commission License Administrator. The commission may employ a person or persons who shall be

responsible for processing license applications of all persons, other than associations, required to be licensed by 810 KAR 1:003 and collecting fees therefor. All license applications received by the license administrator shall be subject to approval by the licensing committee and the commission. The licensing administrator and his assistants shall:

- (1) Be present on association grounds prior to the opening of a race meeting to accept license applications and shall maintain an office on association grounds to accept license applications during such race meeting.
- (2) File daily reports to the commission on license applications received with accountings of fees received and forwarded to the commission.
- (3) Be responsible for the photographing of license applicants for whom same is required.
- (4) Be bonded.

Section 5. Commission Supervisor of Pari-mutuel Betting. (1) The commission shall employ a supervisor with accounting experience who shall be responsible for ascertaining whether the proper amounts have been paid from pari-mutuel pools to the betting public, to the association, and to the Commonwealth, by checking, auditing, and filing with the commission verified reports accounting for daily pari-mutuel handle distribution and attendance for each preceding racing day and a final report at the conclusion of each race meeting in the Commonwealth.

(2) Such daily reports to the commission shall show: For each race: number of horses started, number of betting interests, total money wagered in each betting pool, and refunds, if any for each day. The sum of all betting pools, and total refunds also, total pari-mutuel handle for the comparable racing day for the preceding year, and cumulative total and daily average pari-mutuel handle for the race meeting.

(3) Such daily reports also shall show: Amount of state pari-mutuel tax due; taxable admissions, tax exempt admissions, total admissions; temperature, weather and track conditions, post time of first race; program purses, distance and conditions of each race; any minus pools resulting with explanation.

(4) The commission supervisor of pari-mutuel betting shall submit to the commission on or before thirty (30) days after the close of each race meeting a final verified report giving in summary form a recapitulation of the daily reports for each race meeting and such other information as the commission may require.

(5) The commission supervisor of pari-mutuel betting or his representative shall have access to all association books, records, and pari-mutuel equipment for checking accuracy of same.

Section 6. Commission Veterinarian. The commission shall employ a graduate veterinarian licensed in Kentucky and experienced in equine medicine and practice. He shall advise the commission and the stewards on all equine veterinary matters. The commission veterinarian's prime responsibility shall be the supervision and control of the detention area and for the collection of samples for the testing of horses for prohibited medication as outlined in 810 KAR 1:018. The commission may employ persons to assist the commission veterinarian in maintaining the detention area and collecting specimens. The commission veterinarian shall not treat or prescribe for any horse registered to race at any race track where he is employed, except in case of emergency; nor shall he buy or sell, for

himself or another, any horse under his supervision; nor shall he wager on a race under his supervision.

Section 7. Commission chemist. (1) The commission is authorized to acquire, operate and maintain or to provide by contract for the maintenance of a testing laboratory and related facilities, for the purpose of performing such tests as the commission may require. Such commission chemist shall be a graduate chemist experienced in chemical testing techniques for conducting tests on urine, saliva, sweat, blood and other specimens from thoroughbreds delivered to the commission chemist or his representative by the commission veterinarian.

(2) The commission chemist shall report to the state steward all substances he might find in his tests which are not normal in the body of the horse as outlined in 810 KAR 1:018. His duties will be limited to these reports and need not include the possible effects on the physiology of a horse.

Section 8. Chief Investigative Officer. The commission may employ an investigator experienced in police work who shall advise the commission as to any person on association grounds, or among license applicants, whose conduct or reputation is such that such person's presence on association grounds may reflect on the honesty and integrity of thoroughbred racing or interfere with the orderly conduct of thoroughbred racing. The chief investigative officer shall:

(1) Maintain a current file on persons against whom rulings have been issued in racing jurisdictions and reported through the National Association of State Racing Commissioners. Said file also shall contain reports received from the Thoroughbred Racing Protective Bureau as to investigations, arrest records, and other information; said file also shall contain reports as to ejections or exclusions from association grounds in Kentucky and other racing jurisdictions.

(2) Investigate and ascertain the truth of statements made on license applications.

(3) Investigate possible infractions of racing rules at the request of the commission or stewards.

(4) Participate and co-operate with members of the track security police, Thoroughbred Racing Protective Bureau, state and local police on all other investigations pertaining to racing in the Commonwealth.

Section 9. Commission Inspector. The commission may employ a person or persons who shall be responsible for ascertaining that all persons required to be licensed under 810 KAR 1:003 have same in their possession on association grounds, and for conducting investigations on association grounds at the request of the stewards or the director of security.

Section 10. Horse Identifier. The commission may employ one (1) or more persons to be charged with the responsibility of proper identification of all horses entered to be raced. A horse identifier may accompany the association veterinarian on the pre-race examination of all starters. Every starter shall be examined in the paddock by a horse identifier for sex, age, color, markings, and lip tattoo, for comparison with its registration certificate; photographs may be used as an aid in identification. If a horse identifier has any doubt as to the identity of a horse entered to be raced, the horse identifier shall so notify the paddock judge and the stewards.

Section 11. [10.] Investigative Powers. To insure compliance with these rules or to investigate possible infraction of these rules, the commission and its representatives shall have free access to all offices, files, records, enclosures, barns, and other facilities owned or possessed by associations. The commission and its representatives shall have the power to conduct a reasonable search of the person and property in the possession of licensed persons, such property being restricted to that on association grounds and including, without limiting thereby, tack rooms, living or sleeping quarters.

Section 12. [11.] Publication of Rule Changes. All rules adopted, revised, or repealed subsequent to the publication of a rule book shall be signed by the secretary and published by posting same with the effective date, in compliance with the statutes, of such change on the bulletin board on the racing secretary's office of each association, and by forwarding a copy of same to the National Association of State Racing Commissioners, and to the Daily Racing Form for publication therein.

DUNCAN S. STEWART, SR., Secretary

ADOPTED: December 12, 1978

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: January 15, 1979 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky State Racing Commission
(Proposed Amendment)

810 KAR 1:011. Pari-mutuel wagering.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for the operation of pari-mutuel wagering.

Section 1. Pari-mutuel system of wagering required. Each association licensed to conduct racing in this state may permit wagering only on races conducted by such association on the grounds of such association; no association may accept wagers on races conducted elsewhere by another association. All such permitted wagering shall be under the pari-mutuel system, employing an electric totalizator approved by the commission. All systems of wagering other than pari-mutuel, such as bookmaking and auction-pool selling, are prohibited and any person participating or attempting to participate in prohibited wagering shall be ejected or excluded from association grounds.

Section 2. Totalizator required. Each association shall install and operate during its race meeting an electric totalizator approved by the commission. Such totalizator shall be tested daily under the supervision of the commission to insure its proper working order.

Section 3. Records to be maintained. The pari-mutuel manager shall maintain complete records of all wagering so the commission may upon review ascertain for any race: The opening line and subsequent odds fluctuations, the amount, and at which window, wagers were placed on any betting interest, and such other information as the commission may from time to time require. A copy of such wagering records shall be retained by each association and safeguarded for a period not less than two (2) years and may not be destroyed without permission of the commission.

Section 4. Calculation and distribution of pools. The only pari-mutuel wagering pools permitted in this state shall be for win, place, show, daily double, exacta and quinella, each with separate and independent calculation and distribution. From each pool there shall be deducted by each association the commission as provided by KRS 318.515, with the remainder being the net pool for distribution as payoffs to ticket holders as follows:

(1) Win pool: The amount wagered on the horse or betting interest which finished first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the horse or betting interest finishing first, such quotient being the profit per dollar wagered to win; payoff includes return of amount wagered and profit thereon.

(a) In the event of a dead heat for first involving horses of two (2) different betting interests, the win pool is distributed as if a place pool; if involving horses of three (3) different betting interests, the win pool is distributed as if a show pool.

(b) In the event no win ticket is sold on the horse which finishes first, the net win pool is distributed to holders of win tickets on the horse finishing second.

(2) Place pool: The amounts wagered to place on the first two (2) horses to finish are deducted from the net pool to determine the profit; the profit is divided into two (2) equal amounts; one half ($\frac{1}{2}$) of the profit is divided by the amount wagered to place on the first finisher, such quotient being the profit per dollar wagered to place on the first finisher; and one half ($\frac{1}{2}$) of the profit is divided by the amount wagered to place on the second finisher, such quotient being the profit per dollar wagered to place of such second finisher; payoffs include return of amount wagered and profit thereon as to each of the first two (2) finishers.

(a) In the event of a dead heat for first: between horses representing the same betting interest, the place pool is distributed as if a win pool; if between horses representing two (2) different betting interests, the place pool is distributed as if one (1) betting interest finished first and the other finished second; if between horses representing three (3) different betting interests, the place pool is distributed as if a show pool.

(b) In the event of a dead heat for second: between horses representing the same betting interest, the place pool is distributed as if no dead heat occurred; if between horses representing two (2) or more different betting interests, the profit is divided in half, with one half ($\frac{1}{2}$) allocated for wagers to place on the horse which finished first, and other half divided equally so as to allocate one-fourth ($\frac{1}{4}$) of the profit on the net place pool for wagers to place on each of two (2) horses finishing in a dead heat for second, or one-sixth ($\frac{1}{6}$) of the profit for wagers to place on each of three (3) horses finishing in a dead heat for second.

(c) In the event the first and second finishers comprise a single betting interest, the place pool is distributed as if a win pool.

(d) In the event no place ticket is sold on a horse which finishes first or second, then the horse which finished third shall replace that horse in the distribution of wagers in the place pool.

(3) Show pool: The amounts wagered to show on the first three (3) horses to finish are deducted from the net pool to determine the profit; the profit is divided into three (3) equal amounts; one third ($\frac{1}{3}$) of the profit is divided by the amount wagered to show on the first finisher, such quotient being the profit is divided by the amount wagered to show on the second finisher, such quotient being the profit per dollar wagered to show on such second finisher; and one third ($\frac{1}{3}$) of the profit is divided by the amount wagered to show on the third finisher, such quotient being profit per dollar wagered to show on such third finisher; payoffs include return of amount wagered and profit thereon as to each of the first three (3) finishers.

(a) In the event of a dead heat for first: between two (2) horses involving different betting interest, or three (3) horses involving three (3) different betting interests, the show pool is distributed as if no dead heat occurred; if between two (2) horses involving the same betting interest two thirds ($\frac{2}{3}$) of the profit is allocated to wagers to show on the coupled betting interest, and one third ($\frac{1}{3}$) allocated to wagers to show on the other horse among the first three (3) finishers; if between three (3) horses involving one (1) betting interest, the show pool is distributed as if a win pool.

(b) In the event of a dead heat for second: between two (2) horses involving two (2) different betting interests, the show pool is distributed as if no dead heat occurred; if between horses involving the same betting interest, two thirds ($\frac{2}{3}$) of the profit shall be allocated to wagers to show on the coupled betting interest, and one third ($\frac{1}{3}$) allocated to wagers to show on the horse finishing first; if between three (3) horses involving two (2) or three (3) betting interests, one third ($\frac{1}{3}$) of the profit is allocated to wagers to show on the horse finishing first, and the remaining two thirds ($\frac{2}{3}$) of the profit is divided equally by the number of betting interests finishing in a dead heat for second for proportionate distribution on wagers to show for each such betting interest finishing in a dead heat for second.

(c) In the event of a dead heat for third: between horses involving the same betting interests, the show pool is distributed as if no dead heat occurred; if between horses involving two (2) or more betting interests, two thirds ($\frac{2}{3}$) of the profit shall be allocated to wagers to show on the first two (2) finishers, and the remaining one third ($\frac{1}{3}$) is divided equally by the number of betting interests finishing in a dead heat for third for proportionate distribution on wagers to show for each such betting interest finishing in a dead heat for third.

(d) In the event the first three (3) horses to finish comprise one (1) betting interest, the show pool shall be distributed as a win pool. In the event two (2) horses coupled as a single betting interest finish first and second, or first and third, or second and third, two thirds ($\frac{2}{3}$) of the profit shall be allocated to wagers to show on the other horse among the first three (3) finishers.

(e) In the event one (1) horse coupled in the betting by reason of being in the mutuel field or part of a mutuel entry finishes first or second, and another horse included in the same betting interest finishes in a dead heat for third: one half ($\frac{1}{2}$) of the profit in the show pool shall be allocated to wagers on such field or entry, one third ($\frac{1}{3}$) of

the profit in the show pool shall be allocated to wagers on the horse finishing first or second, and the remaining one sixth ($\frac{1}{6}$) of such profit shall be allocated to wagers on the horse finishing in a dead heat for third with such field or entry.

(f) In the event only two (2) horses finish, the show pool, if any, shall be distributed as if a place pool; if only one (1) horse finishes, the place and show pools, if any, shall be distributed as if a win pool; if no horse finishes, all money wagered on such race shall be refunded upon presentation and surrender of pari-mutuel tickets sold thereon. In the event no show ticket is sold on a horse which finishes first, or second, or third, then, the horse which finished fourth shall replace that horse in the distribution of wagers in the show pool.

(4) Daily double pool: The amount wagered on the winning combination, such being the horse or betting interest which finishes first in the first daily double race, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning daily double combination; payoff includes the amount wagered and profit thereon.

(a) In the event of a dead heat for first involving two (2) different betting interests, in one (1) of the two (2) daily double races, the daily double pool is distributed as if a place pool, with half the profit allocated to wagers combining the single winner of one (1) daily double race and one (1) of the betting interests involved in the dead heat in the other daily double race, with the other half of the profit allocated to wagers combining the single winner of one (1) daily double race and the other betting interest involved in the dead heat in the other daily double race.

(b) In the event of dead heats for first involving different betting interests in each of the daily double races, resulting in four (4), or six (6), or nine (9), winning combinations for proportionate allocation for each such winning daily double wager.

(c) In the event no daily double ticket is sold combining the horse or betting interest which finishes first in one (1) of the daily double races, the daily double pool is distributed as if win pool with the profit allocated to wagering combinations which include the horse or betting interest which finished first in one (1) of the daily double races.

(d) In the event no daily double ticket is sold combining the horse or betting interests which finishes first in both the first and second race of the daily double, then the winning combination for distribution of the daily double profit shall be that combining the horses or betting interests which finished second in each of the daily double races.

(e) If after daily double wagering has commenced and a horse not coupled with another as a betting interest in the first race of the daily double is excused by the stewards or is prevented from racing because of failure of the starting-gate to open properly, then daily double wagers combining such horse shall be deducted from the daily double pool and refunded upon presentation and surrender of daily double tickets thereon.

(f) If, prior to closing of the daily double wagering, a scheduled starter in the second half of the daily double which is not coupled in the betting with another horse is excused by the stewards, then daily double wagers combining such horse shall be deducted from the daily double pool and refunded upon presentation and surrender of daily double tickets thereon.

(g) If after the first race of the daily double has been

run, and a horse not coupled with another as a betting interest in the second race of the daily double is excused by the stewards or prevented from racing because of failure of the starting-gate door to open properly, then daily double wagers combining the winner of the first daily double race with such horses prevented from racing in the second daily double race shall be allocated consolation payoffs:

1. Consolation daily double payoffs shall be determined by dividing the net daily double pool by the amount wagered combining the winner of the first daily double race with every horse or betting interest scheduled to start in the second daily double race, such quotient being the consolation payoff per dollar wagered combining the winner of the first daily double race with such horse prevented from racing in the second daily double race;

2. Such consolation payoffs shall be deducted from the net daily double pool before calculation and allocation of wagers on the winning daily double combination.

(h) If for any reason the first daily double race is cancelled or declared "no race" by the stewards, then the entire daily double pool shall be refunded upon presentation and surrender of daily double tickets thereon. If for any reason the second daily double race is cancelled or declared "no race" by the stewards after the first daily double race is declared official, then the net daily double pool shall be distributed to wagering combinations which include the horse or betting interest which finished first in the first daily double race.

(i) If no daily double ticket is sold requiring distribution, then the entire daily double pool shall be refunded upon presentation and surrender of daily double tickets thereon.

(5) Quinella pool: The amount wagered on the winning combination, such being the first two (2) finishers irrespective of which horse finishes first and which horse finishes second, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning quinella combination; payoff includes the amount wagered and profit thereon.

(a) In the event of a dead heat for first: between horses involving two (2) different betting interests, the net quinella pool is distributed as if no dead heat occurred; if between horses involving three (3) different betting interests, the net quinella pool is distributed as if a show pool and is allocated to wagers combining any of the three (3) horses finishing in a dead heat for first.

(b) In the event of a dead heat for second: between horses involving two (2) different betting interests, the net quinella pool is distributed as if a place pool and is allocated to wagers combining the first finisher with either horse finishing in a dead heat for second; if between horses involving three (3) different betting interests, the net quinella pool is distributed as if a show pool, and allocated to wagers combining the first horse with each of the three (3) horses finishing in a dead heat for second;

(c) In the event horses representing a single betting interest finish first and second, the net quinella pool shall be allocated to wagers combining such single betting interest with the horse or betting interest which finishes third.

(d) In the event no quinella ticket is sold combining:

1. The first finisher with one (1) of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the first finisher with the other horse finishing in a dead heat for second;

2. The first finisher with either of the horses finishing in a dead heat for second, then the net quinella pool is

allocated to wagers combining the two (2) horses which finished in the dead heat for second;

3. The first finisher with either of the horses finishing in a dead heat for second, or combining with two (2) horses which finished in a dead heat for second, then the net quinella pool is distributed as if a show pool is allocated to wagers combining any of the first three (3) finishers with any other horses.

4. The first two (2) finishers, then the net quinella pool shall be distributed as if a place pool and is allocated to wagers combining the first finisher with any other horses, and wagers combining the second finisher with any other horse.

5. Horses or betting interest as would require distribution, then the entire quinella pool shall be refunded upon presentation and surrender of quinella tickets thereon.

(6) Exacta pool. The exacta pool is a contract by the purchaser of a ticket combining two (2) horses in a single race, selecting the two (2) horses that will subsequently finish first and second in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(a) The exacta is not a "parlay" and has no connection with or relation to the win, place and show betting and will be calculated as an entirely separate pool.

(b) If no ticket is sold on the winning combination of an exacta pool, the net pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and/or holders of tickets selecting the second place horse to finish second.

(c) If no ticket is sold that would require distribution of an exacta pool to winner as above defined, the association shall make a complete and full refund of exacta pool.

(d) In case of a dead heat between two (2) horses for first place, the net exacta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combinations. In case of a dead heat between two (2) horses for second place, the exacta pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the pay-off.

(e) In the event of a dead heat for second place, if no ticket is sold on one (1) of the two (2) winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the exacta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(f) In the event of any entry finishing first and second, the net exacta pool shall be distributed to holders of tickets selecting the entry to win combined with the horse finishing third.

(7) Refunds:

(a) If after win, place, or show wagering has commenced, a horse not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting-gate door to open properly, the wagers on such horse shall be deducted from the win, place, and show pools, as the case may be, and refunded upon presentation and surrender thereof. If more than one (1) horse represents a single betting interest by reason of coupling as a mutual entry or mutual field, such single betting interest being the sole subject of a wager or part of a combination in a daily double, exacta or quinella wager, then there shall be no refund unless all of the horses representing such single betting interest are excused by the

stewards and/or are prevented from racing horses because of failure of the starting-gate doors to open properly.

(b) If after exacta and quinella wagering has commenced, a horse not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting-gate to open properly, then exacta and quinella wagers combining such horse with any other horse or betting interest shall be deducted from the exacta and quinella pool and refunded upon presentation and surrender of exacta and quinella tickets thereon.

(8) Race cancelled. If for any reason a race is cancelled or declared "no race" by the stewards after wagering has commenced on such race, then all wagering thereon shall be refunded upon presentation and surrender of pari-mutuel tickets thereon; except as to daily double wagers upon cancellation of the second daily double race, which shall be distributed as provided under Section 4(4)(h) of this regulation.

(9) Totalizator breakdown. In the event of an irreparable breakdown of the totalizator during the wagering on a race, the wagering on that race shall be declared closed and the payoff shall be computed on the sums wagered in each pool up to the time of the breakdown.

Section 5. Minimum wager and payoff. The minimum wager to be accepted by any licensed association shall be two dollars (\$2). The minimum pay-off on a two dollar (\$2) wager shall be two dollars and twenty cents (\$2.20). *However, in the event of a minus pool, the minimum pay-off for a two dollar (\$2) wager shall be two dollars and ten cents (\$2.10).*

Section 6. Minors prohibited from wagering. No minor shall be permitted by any licensed association to purchase or cash a pari-mutuel ticket.

Section 7. Odds or payoffs posted. Approximate odds, based on win pool betting for finishing first for each betting interest, shall be posted on one (1) or more boards or television screens within view of the wagering public, at intervals of not more than ninety (90) seconds. If daily double wagering is conducted, before off-time of the second daily double race, the possible payoff for each two dollar (\$2) daily double wager combining the winner of the first daily double race with every horse or betting interest in the second daily double race; excepting that, in the event of a dead heat for first in the first daily double race, or a scheduled starter in the second daily double race is excused so as to cause a consolation daily double pool, then posting of all possible payoffs shall not be mandatory, but the association shall make every effort to compute such daily double prices and advise the public of same by posting or public-address announcement as soon as possible and prior to the running of the second daily double race.

Section 8. Betting explanation. Each association shall cause to be published in the daily race program a general explanation of pari-mutuel betting and an explanation of each type of betting pool offered; such explanation also shall be posted in conspicuous places about the association grounds so as to adequately inform the public. Such explanation shall be submitted to the state steward prior to publication so as to insure an absence of conflict with these rules.

Section 9. Prior approval required for betting pools.

Each association desiring to conduct more than nine (9) betting races on a single day, or desiring to offer daily double, exacta or quinella wagering, shall first apply therefor in writing to the commission and obtain specific approval as to number of betting races and type of wagering to be offered on a single day.

Section 10. Pools dependent upon entries. (1) Unless the commission approves a prior written request from the association to alter wagering opportunities for a specific race, each association shall offer win, place, and show wagering on all programmed races involving six (6) or more betting interests.

(2) If horses representing five (5) or fewer betting interests qualify to start in a race, then the association may prohibit show wagering on that race; if horses representing four (4) or fewer betting interests qualify to start in a race, then the association may prohibit both place and show wagering on that race.

(3) If, by reason of a horse being excused by the stewards after wagering has commenced or a horse is prevented from racing because of failure of a starting-gate door to open properly, the number of actual starters representing different betting interests is:

(a) Reduced to five (5), then the association may cancel show wagering on that race and the entire show pool shall be refunded upon presentation and surrender of show tickets thereon;

(b) Reduced to four (4) or fewer, then the association may cancel both place and show wagering on that race and the entire place pool and show pool shall be refunded upon presentation and surrender of such place and show tickets thereon.

Section 11. Pari-mutuel ticket sales. (1) No para-mutuel tickets shall be sold except by the association conducting the races on which such wagers are made, and the same shall be sold only at regular "seller" windows properly designated by signs showing the type and denomination of tickets to be sold at such windows. No pari-mutuel ticket may be sold after the totalizator has been locked and no association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator has been locked.

(2) Any claim by a person that he has been issued a ticket other than that which he requested, must be made before such person leaves the seller window and before the totalizator is locked.

(3) After purchasing a ticket and after leaving a ticket window, a person shall not be entitled to enter for issuance an incorrect ticket, or claim refund or payment for tickets discarded, or lost, or destroyed, or mutilated beyond identification.

(4) Payment on valid pari-mutuel tickets shall be made only upon presentation and surrender thereof to the association where such wager was made within two (2) years following the running of the race on which such wager was made. Failure to present any such ticket within two (2) years shall constitute a waiver of the right to receive payment thereon.

(5) Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as purposely posted on the infield results board and declared "official" by the stewards; any subsequent change in such order of finish or award of purse money as may result from a subsequent ruling by the steward or commission, shall in no way affect the pari-mutuel payoff.

(6) The association shall be responsible for the correctness of all payoff prices posted as "official" on the infield results board. If an error is made in posting the payoff figures on the public board, and ascertained before any tickets are cashed thereon, then such posting error may be corrected accompanied by a public address announcement, and only the correct amounts shall be used in the payoff, irrespective of the initial error on the public board.

(7) Prior to posting payoffs, the pari-mutuel manager shall require each of the computer printout sheets (calculating sheets) of such race to be proven by the computer (calculator) and the winners verified. Such proof shall show the amounts for commission, breakage, and payoffs, which added together shall equal the total pool. All pay slips are to be checked with computer printout sheets (calculating sheets) as to winners and prices before being issued to cashiers, and all board prices are to be rechecked with the computer printout sheet (calculator) before released to the public.

(8) Whenever the recapitulation of the sales registered by each ticket issuing machine subsequently proves that the actual amount in the pool, or pools, is less than the amount used in calculating the payoff, such deficiency shall be deposited in the pool or pools by the association. Should the recapitulation of sales prove that the actual amount in the pool or pools, is greater than the amount used in calculating the payoff due to a mechanical error of the totalizer such error resulting in underpayment to the public, then the aggregate of such underpayments shall be paid into the corresponding pool of the next race or races, in such amounts as may be determined by the state steward and the pari-mutuel manager. If any such error should occur in computing the daily double pool, the underpayment shall be added to the daily double pool of the following day. Overpayments and underpayments subsequently discovered upon recapitulation after the close of a meeting may be adjusted, and any underpayment resulting from such final adjustment shall be paid to the Department of Revenue.

Section 12. Betting interests involving more than one (1) horse. When two (2) or more horses entered for the same race are determined by the stewards to have common ties through ownership or training and are joined by the stewards as a "mutuel entry," such mutuel entry shall become a single betting interest and a wager on one (1) horse in a mutuel entry shall be a wager on all horses in the same mutuel entry. When the number of horses competing in a race exceeds the numbering capacity of the totalizer, the racing secretary shall assign the highest pari-mutuel numbers to horses so that the highest numbered horse within the numbering capacity of the totalizer, together with horses of higher numbers, shall be grouped in the "mutuel field" as a single betting interest, and a wager on one (1) horse in the mutuel field shall be a wager on all horses in the same mutuel field.

Section 13. Emergency situation. In the event any emergency arises in connection with the operation of the pari-mutuel department not provided for by these rules, then the pari-mutuel manager shall make an immediate decision and render a full report to the commission.

DUNCAN S. STEWART, SR., Secretary
ADOPTED: November 9, 1978
APPROVED: DONALD RHODY, Secretary
RECEIVED BY LRC: December 21, 1978 at 10:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky State Racing Commission, P. O. Box 1080, Lexington, Kentucky 40588.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky State Racing Commission (Proposed Amendment)

810 KAR 1:015. Claiming races.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation relates to the claiming of horses.

Section 1. (1) In claiming races any horse is subject to claim for its entered price by any *licensed* owner [,] in good standing, or by the holder of a certificate of eligibility to claim. [who has started a horse at the meeting at which the claim is made. An owner may claim out of his initial race.] The procedure for obtaining a certificate of eligibility to claim shall be as follows:

(a) Applicant shall, fifteen (15) days prior to entering a claim, submit an application for owners original license, to be accompanied by a financial statement; a finger print card; the name of a licensed trainer or person eligible to be licensed as trainer, who will assume care and responsibility for the horse claimed; and the requisite fee for owners license.

(b) If applicant has not claimed a horse within ninety (90) calendar days after issue of a certificate of eligibility to claim, such certificate will be cancelled, and no other certificate issued during the same calendar year. The fee charged is not refundable. Names of persons who have obtained certificates of eligibility to claim shall be posted in the racing secretary's office together with the dates during which the certificate is valid.

(2) A claim may be made by an authorized agent, but an agent may claim only for the account of those for whom he is licensed as agent, and the name of the authorized agent, as well as the name of the owner for whom the claim is being made, shall appear on the claim slip.

(3) No person shall claim his own horse, or cause his own horse to be claimed, directly or indirectly, for his own account. No claimed horse shall remain in the same stable or under the care or management of the owner or trainer from whom claimed.

(4) No person shall claim more than one (1) horse from any one (1) race. No authorized agent, although representing several owners, shall submit more than one (1) claim for any race. When a stable consists of horses owned by more than one (1) person, trained by the same trainer, not more than one (1) claim may be entered on behalf of such stable in any one (1) race. An owner who races in a partnership may not claim except in the interest or the partnership, unless he has also started a horse in his own individual interest.

(5) A claimed horse shall not run for thirty (30) days after being claimed in a race in which the determining eligibility price is less than twenty-five (25) percent more than the price for which the horse was claimed. The day claimed shall not count but the following calendar day

shall be the first day, and the horse shall be entitled to enter whenever necessary so that it may start on the thirty-first (31st) calendar day following the claim. This provision shall not apply to starter handicaps, in which the weight to be carried is assigned by the handicapper.

(6) No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within thirty (30) days after the day it was claimed, except in another claiming race. No horse shall race elsewhere until after the close of the meeting at which it was claimed, except that the stewards may grant permission for a claimed horse to enter and start at an overlapping or conflicting meeting within the boundaries of the Commonwealth of Kentucky.

(7) Each claim shall be made in writing on a form and in an envelope supplied by the association. Both form and envelope must be filled out completely, and must be accurate in every detail.

(8) Claims must be deposited in the claim box at least fifteen (15) minutes before post time of the race from which the claim is being made. No money or its equivalent shall be put in the claim box. For a claim to be valid the claimant must have at the time of filing the claim a credit balance in his account with the horseman's bookkeeper of not less than the amount of the claim, plus the Kentucky sales tax.

(9) The stewards, or their designated representative, shall open the claim envelopes for each race as soon as the horses leave the paddock en route to the post. They shall thereafter check with the horseman's bookkeeper to ascertain whether the proper credit balance has been established with the association. [, and whether the claimant has established claiming privileges by starting a horse at the meeting.]

(10) If more than one valid claim is filed for the same horse, title to the horse shall be determined by lot under the supervision of the stewards or their designated representative.

(11) Any horse that has been claimed shall, after the race has been run, *be delivered to the claimant*, [be taken to the paddock for delivery to the claimant] who must present written authorization for the claim from the racing secretary. *Horses which are sent to the detention area for post race testing shall be delivered at that point; others are to be delivered in the paddock.* No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore the horse in question shall be disqualified from further racing until delivery is made.

(12) Claims are irrevocable. Title to a claimed horse shall be vested in the successful claimant from the time the said horse is a starter, and said claimant shall then become the owner of the horse whether it be alive or dead, sound or unsound, or injured during the race, or after it. A claimed horse shall run in the interest of and for the account of the owner from whom claimed.

(13) No person shall offer, or enter into, an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race. No person shall attempt by intimidation to prevent anyone from running a horse in any claiming race. No owner or trainer shall make an agreement with another owner or trainer for the protection of each other's horses in a claiming race.

(14) Claims which are not made in keeping with the rules shall be void. The stewards may at any time in their discretion require any person filing a claim to make affidavit in writing that he is claiming in accordance with the rules. The stewards shall be the judges of the validity of the claim [, and if they feel that a "starter" was nominated for the

purpose of making its owner eligible to claim, they may invalidate the claim].

(15) Any person holding a lien of any kind against a horse entered in a claiming race must record the same with the racing secretary and/or horseman's bookkeeper at least thirty (30) minutes before post time for that race. If none is so recorded, it shall be assumed that none exists.

[(16) Should a stable at a meeting be eliminated by sale or removal from the grounds, save to other stabling approved by the stewards, the right to claim is void. An owner whose stable has been completely eliminated by claiming shall have the right to claim during the remainder of the meeting at which his stable was eliminated, or for thirty (30) Kentucky racing days, whichever period is longer. If the thirty (30) day period should extend into the next succeeding meeting, the owner must obtain a certificate from the stewards of the meeting at which he lost his last horse, and must present this certificate when filing a claim at the next meeting. After claiming a horse under the conditions of this rule the owner shall be required to reinstate his eligibility to claim by starting a horse, before being eligible to make another claim.]

(16) [(17)] The engagements of a claimed horse pass automatically with the horse to the claimant.

(17) [(18)] Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

DUNCAN S. STEWART, SR., Secretary

ADOPTED: December 12, 1978

APPROVED: DONALD RHODY, Secretary

RECEIVED BY LRC: December 21, 1978 at 10:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

DEPARTMENT FOR HUMAN RESOURCES Bureau for Health Services (Proposed Amendment)

902 KAR 105:030. Teaching institution's curricula.

RELATES TO: KRS 211.870, 211.890, 211.993

PURSUANT TO: KRS 13.082, 194.050, 211.090

NECESSITY AND FUNCTION: The Department for Human Resources is empowered by KRS 211.870, 211.890 and 211.993 to regulate operators of sources of radiation other than licensed practitioners of the healing arts, including but not limited to: the classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate sources of radiation; issuance, renewal, and revocation of certificates; the fixing of a reasonable schedule of fees and charges to be paid by applicants for examinations, certificates, and renewal certificates; and to set such other standards as may be appropriate for the protection of health and safety. The purpose of this regulation is to establish uniform curricula standards for institutions teaching persons to operate sources of radiation.

Section 1. Applicability. This regulation applies to curricula standards for institutions offering an *institutional* [a] course of study for operators of sources of radiation.

Section 2. Curricula Standards. All sponsoring institutions offering an *institutional* [a] course of study for operators of sources of radiation shall:

(1) Apply for approval on a form provided by the department;

(2) Supply all data requested for a complete evaluation of its administration, organization, faculty, physical facilities, student policies, and curriculum instructions.

(3) Have as the director of the course of study a licensed practitioner of the healing arts[;] *or an individual who is qualified by training and experience to administer a course of study for operators of sources of radiation;*

(4) Provide an adequate faculty *which shall be qualified through academic preparation or experience to teach the subjects assigned;*

(5) Provide at least one (1) certified operator who shall be designated as the technical director of the training program. In addition to certification the individual must have a minimum of three (3) years of education or experience or a combination of education and experience in the appropriate field of practice;

(6) Provide a ratio of not more than three (3) students to one (1) full-time certified operator engaged in clinical instruction;

(7) Provide a course of study in radiography at facilities approved by the department.

(8) Provide appropriate facilities, sufficient volume, and a variety of diagnostic radiographic examinations to properly conduct the course of study;

(9) Prohibit students from applying radiation to human beings for diagnostic purposes until they have obtained practical experience using phantoms and have had their performance evaluated as satisfactory by the technical director;

(10) Provide direct personal supervision by a licensed practitioner of the healing arts or a certified operator to students upon their initial application of radiation to human beings;

(11) Prohibit students from being assigned night or week-end call or being placed in any other situation where they would be required to apply radiation to a human being while not under the direct supervision of a licensed practitioner of the healing arts or a certified operator except where they have completed at least fifty (50) percent of their course of study and had their performance evaluated and recorded as satisfactory by the technical director permitting radiographic procedures under general supervision.

(12) Prohibit all exposures to human beings from a source of radiation except for diagnostic purposes unless otherwise specified in the curriculum approved by the department;

(13) Keep records of each student's attendance, grades, *clinical experience* [examinations], and subjects completed;

(14) Designate a radiation safety officer; and

(15) Permit site inspections by representatives of the department. *The department may accept, in lieu of a departmental site inspection, a site visit report from a recognized accrediting body.*

Section 3. *Advanced Placement.* Upon departmental approval, advanced placement may be made by examination in accordance with institutional policy based upon the same standards of achievement required for students completing the required clock hours of classroom and clinical experience. Examinations used in advance placement shall be reliable, valid and standardized and based on per-

formance data of students who have completed the required subjects.

ROBERT SLATON, Commissioner
PETER D. CONN, Secretary

ADOPTED: January 15, 1979

RECEIVED BY LRC: January 15, 1979 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES Bureau for Health Services (Proposed Amendment)

902 KAR 105:040. Medical, [or] osteopathic or chiropractic [physician] supervision.

RELATES TO: KRS 211.870, 211.890, 211.993

PURSUANT TO: KRS 13.082, 194.050, 211.090

NECESSITY AND FUNCTION: The Department for Human Resources is empowered by KRS 211.870, 211.890 and 211.993 to regulate operators of sources of radiation other than licensed practitioners of the healing arts, including but not limited to: the classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate sources of radiation; issuance renewal, and revocation of certificates; the fixing of a reasonable schedule of fees and charges to be paid by applicants for examinations, certificates, and renewal certificates; and to set such other standards as may be appropriate for the protection of health and safety. The purpose of this regulation is to establish uniform standards for the certification of individuals who operate sources of radiation for human diagnostic radiographic purposes while under the supervision of a medical, [or] osteopathic or chiropractic licensed practitioner of the healing arts [physician].

Section 1. Applicability. This regulation applies to individuals who operate sources of radiation for human diagnostic radiographic purposes while under the supervision of a medical, [or] osteopathic or chiropractic licensed practitioner [physician].

Section 2. General Certification Required to Perform Contrast Studies. Only individuals holding a general certificate shall operate sources of radiation at facilities where contrast studies are performed.

Section 3. Eligibility for a General Certificate. No person shall be eligible for a general certificate as an operator of a source of radiation for human diagnostic radiographic purposes under the supervision of a medical, [or] osteopathic or chiropractic licensed practitioner [physician] unless he has:

(1) Satisfactorily completed a four (4) year course of study in a secondary school or passed a standard equivalency test; and

(2) Satisfactorily completed a twenty-four (24) months' course of study in medical, [or] osteopathic or chiropractic radiography approved by the department. The course shall

include a minimum of 410 hours of classroom work including the following subjects: x-ray physics, radiographic techniques, darkroom chemistry and techniques, anatomy and physiology, radiation protection, *patient positioning*, film critique and ethics; and shall include an adequate number of hours but not less than 2,200 hours to be devoted to clinical experience consisting of demonstrations, discussions, seminars and supervised practice; and

(3) Satisfactorily passed an examination conducted or approved by the department.

Section 4. Eligibility for a Limited Certificate. No person shall be eligible for a limited certificate as an operator of a source of radiation for human diagnostic radiographic purposes under the supervision of a medical or osteopathic or *chiropractic licensed practitioner* [physician] unless he has:

(1) Satisfactorily completed a four (4) year course of study in a secondary school or passed a standard equivalency test; and

(2) Satisfactorily completed a limited course of study in medical, osteopathic, or *chiropractic radiography* approved by the department through an institutional or independent study course.

(a) The approved institution course of study shall include not less than 140 hours of classroom work including the following subjects: x-ray physics, radiographic techniques, darkroom chemistry and techniques, anatomy and physiology, radiation protection, *patient positioning*, film critique and ethics; and shall include an adequate number of hours but not less than 260 to be devoted to clinical experience consisting of demonstrations, discussions, seminars and supervised practice; or

(b) The approved independent study course shall include but not be limited to the following subjects: x-ray physics, radiographic techniques, darkroom chemistry and techniques, anatomy and physiology, radiation protection, *patient positioning*, film critique and ethics. Clinical experience can be obtained by performing a minimum of fifty (50) radiographic examinations in each of the following areas: chest, extremities and musculoskeletal. Such experience shall be obtained at the individual's place of employment, an alternate facility, or a combination of the two (2). The employer shall be responsible for providing or arranging for the required clinical experience; and

[(2) Satisfactorily completed a limited course of study in medical or osteopathic radiography approved by the department. The course of study shall include not less than 180 hours of classroom work including the following subjects: x-ray physics, radiographic techniques, darkroom chemistry and techniques, anatomy and physiology, radiation protection, film critique and ethics; and shall include

an adequate number of hours but not less than 300 to be devoted to clinical experience consisting of demonstrations, discussions, seminars and supervised practice; and]

(3) Satisfactorily passed an examination conducted or approved by the department.

Section 5. Conditional Certificate. Individuals who have not been certified by an approved credentialing organization shall be issued a conditional certificate. All conditional certificates shall expire effective July 1, 1979 and are non-renewable. Upon successful passage of an appropriate departmental examination, the holder of a conditional certificate shall be issued a general or limited certificate pursuant to these regulations.

Section 6. Temporary Certificate. The department may, upon proper application and upon payment of the appropriate application and certificate fee, issue a temporary certificate to an applicant who has successfully completed an approved course of instruction in medical, [or] osteopathic or *chiropractic radiography* and who meets all the other requirements of these regulations other than having taken the required examination.

Section 7. Provisional Certificate. The department may, under emergency conditions only, issue a provisional certificate to an applicant who works under the direct supervision of a medical, [or] osteopathic or *chiropractic licensed practitioner* [physician] provided:

(1) No certified operator is available;

(2) The *licensed practitioner* [physician] accepts full responsibility for such applicant;

(3) The applicant has successfully completed a four (4) year course of study in a secondary school or passed a standard equivalency test;

(4) The applicant and the *licensed practitioner* [physician] file a joint statement detailing the training and experience of the applicant, if any, and give an assurance that a minimum of thirty (30) clock hours of training will be forthcoming under the direct supervision of a *licensed practitioner* [radiologist] or other qualified person, as defined in 902 KAR 105:010, Section 1(13).

Section 8. 902 KAR 105:050 is repealed.

ROBERT SLATON, Commissioner
PETER D. CONN, Secretary

ADOPTED: January 15, 1979

RECEIVED BY LRC: January 15, 1979 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40601.

Proposed Regulations

EDUCATION AND ARTS CABINET Department of Education

703 KAR 2:015. Age of entrance.

RELATES TO: KRS 158.030

PURSUANT TO: KRS 13.082, 156.070, 156.130

NECESSITY AND FUNCTION: The State Board for Elementary and Secondary Education is required to establish procedures for consideration of petition of parents desiring to enter their children in school prior to legal age limits.

Section 1. The parent or legal guardian of any child who was born after September 1, but becomes five (5) years of age on or before December 31, may petition the State Board for Elementary and Secondary Education to allow the child to enter kindergarten at the beginning of the school year in which the child becomes five (5) years of age. The parent or legal guardian of any child born after September 1 who becomes six (6) years of age on or before December 31 and who has not attended an approved kindergarten the previous year may petition the State Board for Elementary and Secondary Education to allow the child to enter the first grade at the beginning of the school year in which the child becomes six (6). Any child whose birthday falls between September 1 and December 31 and who has attended an approved kindergarten the previous year shall not be eligible for such petition (application) but will be retained or promoted at the sound discretion of the local school district authorities.

Section 2. The parent or legal guardian of a potentially eligible child may obtain prior to March 1 a petition (application) form only from the superintendent of the school district in which the child resides. It shall be the responsibility of the child's parent or guardian to submit the fully completed petition (application) to the Secretary of the State Board for Elementary and Secondary Education on or before May 1 of the calendar year in which early admittance is petitioned. However, the parent or guardian of any child who moves from another state into a school district in Kentucky after May 1 shall be eligible to petition (make application) for their child to enter kindergarten or first grade prior to August 1.

Section 3. (1) Accompanying the fully completed petition (application) the following information must be submitted:

- (a) A copy of the child's birth certificate or a notarized affidavit attesting to the child's date of birth;
- (b) The child's readiness test results, a satisfactory score to be achieved within the standards set by the local school board;
- (c) Any other relevant information that the parent or guardian wishes to submit in support of the petition (application);
- (d) A written recommendation relating to the child's readiness for early admittance made by the local school district superintendent (or his duly authorized represen-

tative) and addressed to the State Board for Elementary and Secondary Education.

(2) A uniform petition form (application) will be prepared by the State Department of Education and samples furnished to each local district.

Section 4. Readiness test instruments for early admittance into either kindergarten or the first grade shall be selected by the local school district from those approved by the State Board for Elementary and Secondary Education. All tests shall be properly administered on dates and in facilities determined by the affected local school district, which also shall determine charges, if any, to parents or guardian who petition the State Board for their child's early admittance. Such charges, if any, are not to exceed the cost of the test and the cost of test administration. Adjacent or coterminous school districts may enter into agreements for giving the readiness test to petitioners' children residing in their school district.

Section 5. The Secretary of the State Board for Elementary and Secondary Education shall, within ten (10) days after action by the board, send written notification of the board's decision on the petition to both the child's parent or guardian and to the superintendent of the local school district in which the child resides.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: January 10, 1979

RECEIVED BY LRC: January 15, 1979 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET Department of Education Bureau of Instruction

704 KAR 3:305. Minimum unit requirements for high school graduation.

RELATES TO: KRS 156.160

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.160(3) requires that upon the recommendation of the Superintendent of Public Instruction, the State Board for Elementary and Secondary Education shall adopt rules and regulations relating to the minimum requirements for graduation from the courses offered in all common schools. This regulation relates to the establishment of requirements necessary for entitlement to a high school diploma.

Section 1. All students in the common schools and all students in the private or parochial schools which are accredited by the State Board for Elementary and Secondary Education shall meet the following minimum unit requirements for high school graduation.

- (1)(a) Language arts—3;
- (b) Social studies (including one (1) unit in U.S. History and one (1) unit in Citizenship)—2;
- (c) Mathematics—2;
- (d) Science—2;
- (e) Health—½;
- (f) Physical education—½.
- (2)(a) Required—10;
- (b) Elective—8;
- (c) Total—18.

Section 2. Each student who satisfactorily completes the requirements of Section 1 and any additional requirements established by the local board of education shall be awarded a graduation diploma.

(1) The diploma represents the satisfactory completion of a prescribed course of study based on the minimum graduation requirements.

(2) The governing board of each school district shall award the diploma.

Section 3. A local board of education may allow a child whose parents or guardian present a certificate from a licensed physician to the effect that because of the child's physical condition, participation in the one-half (½) unit physical education course is not in the best interest of the child, to substitute a physical education course which is within the capabilities of the child as specified by the child's physician.

Section 4. Nothing in this regulation shall be interpreted as prohibiting any local governing board, superintendent, principal or teacher from awarding special recognition to students.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: January 10, 1979

RECEIVED BY LRC: January 15, 1979 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction

704 KAR 20:051. Reissuance of certification.

RELATES TO: KRS 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160

NECESSITY AND FUNCTION: KRS 161.020(3) safeguards the validity of certificates previously issued from later changes in certification requirements. This regulation applies the same concept to the reissuance of certain expired certificates.

Section 1. A certificate that has expired for lack of completion of the planned fifth year renewal requirement may be reissued upon completion of the planned fifth year program and it shall carry the same validity as the expired certificate.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction

704 KAR 20:146. Media librarians, teaching certificate for.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160

NECESSITY AND FUNCTION: Teachers and other professional school personnel must hold certificates of legal qualifications for their respective positions. This regulation establishes the means by which the validity of classroom teaching certificates may be extended for the function of school media librarian.

Section 1. A certificate that is valid for classroom teaching at the elementary school level may be endorsed for the position of elementary school media librarian upon completion of:

(1) An approved twenty-four (24) semester hour curriculum covering the specialization component for school media librarian;

(2) Supervised practice in a media center as set forth in the State Plan for the Approval of Preparation Programs as described in 704 KAR 20:005, TEC 12—three (3) semester hours credit.

Section 2. A certificate that is valid for classroom teaching at the high school level may be endorsed for the position of high school media librarian upon completion of:

(1) An approved twenty-four (24) semester hour curriculum covering the specialization component for school media librarian;

(2) Supervised practice in a media center as set forth in the State Plan for the Approval of Preparation Programs as described in 704 KAR 20:005, TEC 12—three (3) semester hours credit;

(3) One (1) course in the teaching of reading.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction

704 KAR 20:159. Music, provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160

NECESSITY AND FUNCTION: Teachers and other professional school personnel must hold certificates of legal qualifications for their respective positions. This regulation establishes an appropriate certificate for teachers of music.

Section 1. (1) The provisional certificate for teaching music shall be issued in accordance with the pertinent Kentucky statutes and State Board for Elementary and Secondary Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for teaching music shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of the planned fifth year program.

(3) The provisional certificate for teaching music shall be valid for teaching in grades kindergarten through twelve (12).

JAMES B. GRAHAM
 Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction

704 KAR 20:161. Music, general, at elementary level.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160

NECESSITY AND FUNCTION: Teachers and other professional school personnel must hold certificates of legal qualifications for their respective positions. This regulation establishes an appropriate certificate endorsement for teaching general school music at the elementary school level.

Section 1. An endorsement for teaching general school music at the elementary school level shall be issued to an applicant who holds a certificate valid for teaching at the elementary classroom school level and who has completed an approved program of at least twenty-four (24) semester hours concentration in music which shall include proficiency in piano sufficient to play simple accompaniments.

JAMES B. GRAHAM
 Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction

704 KAR 20:267. Repeal of 704 KAR 20:266.

RELATES TO: KRS 157.390, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160

NECESSITY AND FUNCTION: Inasmuch as this regulation contains a deadline date for implementation which is now two years old the regulation should be repealed.

Section 1. 704 KAR 20:266 is hereby repealed.

JAMES B. GRAHAM
 Superintendent of Public Instruction

ADOPTED: November 21, 1978

RECEIVED BY LRC: January 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance

806 KAR 17:050. Inclusion of medicaid as first payor prohibited.

RELATES TO: KRS 304.12-080, 304.17-220, 304.17-230, 304.18-020, 304.18-070, 304.32-150, 304.32-160, 304.38-050, 304.38-180

PURSUANT TO: KRS 13.082, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations for or as an aid to the effectuation of any provision of the Kentucky Insurance

Code. This regulation prohibits the inclusion in insurance contracts and health care provider agreements of provisions making Medicaid first payor.

Section 1. No insurer or health care provider shall write or issue any policy or certificate of coverage provision which has the effect of limiting or excluding its obligation to pay on a claim because the insured is eligible for or is provided medical assistance under the provisions of title XIX of the Social Security Act (Medicaid).

Section 2. No insurer or health care provider shall deny or cancel a policy of insurance or certificate of coverage on the basis that the insured or enrollee is a recipient of medical assistance benefits under title XIX of the Social Security Act (Medicaid).

HAROLD B. MCGUFFEY, Commissioner

ADOPTED: January 11, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: January 15, 1979 at 10 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation Monday, March 5, 1979 at 9:30 a.m., in the Department's hearing room, 151 Elkhorn Court, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 18:010. Minimum standards for treatment of alcoholism.

RELATES TO: KRS 304.18-130, 304.18-140, 304.18-150, 304.18-160, 304.18-170, 304.32-158, 304.38-197

PURSUANT TO: KRS 13.082, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for and as an aid to the effectuation of any provision of the Kentucky Insurance Code. This regulation clarifies the minimum standards for the treatment of alcoholism as set forth in KRS Chapter 304, Subtitles 18, 32 and 38.

Section 1. The purpose of this regulation is to assure all persons covered under group health insurance policies or contracts as defined in KRS 304.18-020 issued to the master policyholder, benefits for the treatment of alcoholism as hereinafter set forth when such benefits are selected by the master policyholder of the group health insurance policy or contract.

Section 2. Definitions. (1) "Emergency detoxification treatment" as used in this regulation means the systematic treatment undertaken when attempting to remove or counteract the acutely threatening physiological or hypersensitive reaction to alcohol.

(2) "Residential treatment" as used in this regulation means the process of assisting the alcoholic patient in an approved residential facility through the use of medically ordered services to attain an unimpaired or improved level of physiological, psychological, or social functioning.

(3) "Outpatient treatment" as used in this regulation means the necessary care under the direction of a licensed

physician for the patient to properly function in the community.

(4) All other definitions relating to alcoholism or the treatment of alcoholism which are applicable to KRS Chapter 304, Subtitles 18, 32 and 38 are contained in KRS 222.011 and the regulations promulgated therefrom.

Section 3. Applicability. (1) The provisions of this regulation shall apply solely to:

(a) Group health insurance policies or contracts providing major medical benefits or benefits for outpatient care. Outpatient care is deemed to include eligible services or treatment received in the outpatient department of a hospital or other licensed treatment facility.

(b) The group policies or contracts as specified in subsection (1), which group health insurance carriers are required to offer to the master policyholder on behalf of its employees or members, only when the master policyholder elects to purchase in new policies or contracts the coverage specified in this regulation.

(2) Disability and accident income benefits and basic health insurance policies and contracts that do not provide major medical benefits or outpatient care are specifically excluded from complying with KRS Chapter 304, Subtitles 18, 32 and 38.

Section 4. Administration of Treatment. (1) Before benefits shall be available for services for the treatment of alcoholism, a physician must examine the patient and assign a diagnosis of alcoholism as classified in categories 303.0-304.7 of the Eighth Revision "International Classification of Diseases," Adapted for Use in the United States, U. S. Department of Health, Education and Welfare.

(2) The phases of treatment for alcoholism available to the patient shall be divided into the following levels:

(a) Emergency detoxification treatment, as previously defined;

(b) Residential treatment, as previously defined; and

(c) Outpatient treatment, as previously defined.

(3) Emergency detoxification treatment is designed to furnish care to patients who are both unable to function within the community and require constant supervision and treatment in the context of the hospital setting. Residential treatment is designed to provide care to patients unable to adjust within the community environment and who require constant supervision and care but not on the acute care level generally associated with hospital inpatients. Outpatient treatment is designed to render care to patients, who are able to function within the community and do not require constant supervision and treatment.

Section 5. Facility and Provider Eligibility. (1) Facilities in which the treatment of alcoholism, as hereinabove enumerated, shall be as licensed by the Department for Human Resources pursuant to KRS 222.210 to 222.300 and the regulations issued in accordance therewith, and accredited by the Joint Commission on the Accreditation of Hospitals for the treatment of alcoholism, except that hospitals licensed in accordance with the provisions of KRS 216.405 to 216.485 shall be approved as eligible facilities for the provision of alcoholism treatment.

(2) All services rendered by an approved facility shall comply with the requirements for such services as contained in KRS 222.210 to 222.300 and the regulations pursuant thereto.

(3) Other than the requirement established in Section 4(1), a patient admitted to any approved facility for the

treatment of alcoholism or receiving such care on an out-patient basis shall at all times be under the guidance and supervision of a licensed physician or such professional personnel specifically designated by such physician who is a recognized staff member of a treatment facility licensed in accordance with subsection (1).

(4) It shall be the responsibility of the approved treatment facility or the physician in charge of the care rendered to a patient, depending upon the setting of the treatment, to provide the necessary medical records and other medical information to the patient's group health insurance carrier for the purposes of claims processing and adjudication, and all such information shall be kept strictly confidential to the extent provided by law.

Section 6. Benefits and Reimbursement. (1) The minimum benefits to be provided pursuant to KRS Chapter 304, Subtitles 18, 32 and 38 on a per patient basis over the course of a contract year, however, such term is defined in the patient's group policy or contract, shall be as follows:

(a) Emergency detoxification treatment—three (3) days of facility care at forty (\$40) dollars a day.

(b) Residential treatment—ten (10) days of total facility care at fifty (\$50) dollars per day, and

(c) Outpatient treatment—one (1) visit at ten (\$10) dollars a visit.

(2) With respect to subsections (1)(a) and (b), the specified days of care are independent of and separate from any other eligible hospital days for which the patient has coverage under any appropriate group policy or contract. With respect to subsection (1)(c), a visit is considered only if therapy, counseling and/or psychological testing have been provided. The need for the continuation of treatment requiring repetitive visits must be certified by a physician every three (3) months.

(3) For those group health insurance carriers whose benefit structures under the appropriate group policies or contracts for the provision of alcoholism treatment are incompatible with the minimum format established under subsection (1) above, the offering of minimum benefits pursuant to this regulation shall be satisfied if an equivalent in terms of service benefits are provided for the treatment of alcoholism.

(4) Existing inpatient coverage provided under a group health insurance carrier's basic group policies or contracts shall not be reduced by the provisions of KRS Chapter 304, Subtitles 18, 32 and 38.

(5) No provision of this regulation shall be construed as prohibiting appropriate group health insurance policies or contracts from providing benefits in excess of the minimum benefits established under KRS Chapter 304, Subtitles 18, 32 and 38, whether such benefits be in the form of cash allowances, service benefits, or otherwise.

(6) All applicable policies and contracts shall stipulate that payment thereunder shall not be made by a group health insurance carrier except upon completion of a phase of treatment by the patient. Payment may be made under such group policy or contracts to the provider of service or the member covered under a group policy or contract held by the master policyholder, in accordance with the provisions of the group policy or contract, but in any event, if payment is made to the provider, the approved treatment facility or the physician in charge of the care rendered to the patient, depending upon the setting of the treatment, shall have the responsibility for coordinating the charges for services rendered and submitting such charges on ap-

proved forms to the patient's group health insurance carrier. If payment is to be made to the group health insurance carrier's member, then the provider of service, be it an approved treatment facility or the physician in charge of the care rendered to the patient, depending upon the setting of the treatment, shall have the responsibility for coordinating the charges for services rendered and submitting such charges on approved forms to the patient's group health insurance carrier. If payment is to be made to the group health insurance carrier's member, then the provider of service, be it an approved facility or the physician in charge of the care rendered to a patient, shall submit a bill or statement of services rendered to the patient with sufficient information contained thereon, including diagnosis and treatment, to permit the group health insurance carrier to proceed and adjudicate claims on behalf of the patient.

(7) Treatment for alcoholism in licensed acute care hospitals shall be considered, in terms of reimbursement by all group health insurance carriers under appropriate policies or contracts, as any other disease, illness or condition covered by such policies or contracts.

HAROLD B. MCGUFFEY, Commissioner

ADOPTED: January 11, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: January 15, 1979 at 10 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation Monday, March 5, 1979 at 9:30 a.m., in the department's hearing room, 151 Elkhorn Court, Frankfort, Kentucky, 40601.

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 1:041. Payments for intermediate care facility services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for intermediate care facility services.

Section 1. Intermediate Care Facilities. In accordance with 1902(a)(13)(E) of the Social Security Act, and 45 CFR 250.30, recodified as 42 CFR 450.30, the department shall make payment to participating providers on the following basis:

(1) Payment shall be made on a reasonable cost related basis.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the department and supplemented by the use of the Title XVIII-A reimbursement principles.

(3) For the period July 1, 1975 through June 30, 1976, payment amounts arrived at shall not exceed, on a

statewide average basis, those amounts which would have been paid using the Title XVIII-A principles and methods of cost reimbursement.

Section 2. Implementation of the Payment System. The department's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The department's reimbursement system includes the following specific policies, components, or principles:

(1) Prospective payment rates for routine services, reasonably related to costs, shall be set by the department on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the department. An adjustment to the prospective rate (subject to the maximum payment) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements; or other direct governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment. Such maximum payment rate may be reviewed annually by the department and may be adjusted as deemed appropriate with consideration given to the factors of facility costs, program objectives and budgetary resources.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the department exceeding twenty-five (25) percent of billed charges, or where an evaluation by the department of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of intermediate facility care. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relate to providing intermediate care facility services. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing, the principal of which will generally be repaid within one (1) year; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost.

(c) For both paragraphs (a) and (b), above, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess twenty (20) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, and intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, the department will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(9) Each facility shall maintain and make available such records (in a form acceptable to the department) as the department may require to justify and document all costs to and services performed by the facility. The department

shall have access to all fiscal and service records and data maintained by the provider, including unlimited onsite access for accounting, auditing, medical review, utilization control and program planning purposes.

(10) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Departmental approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for intermediate facility care. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the department shall not be construed as approval of the item or expansion.

(11) The department shall audit each year-end cost report in the following manner: an initial desk review shall be performed of the report and the department will determine the necessity for and scope of a field audit in relation to routine service cost. A field audit may be conducted for purposes of verifying prior year cost to be used in setting the new prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(12) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(13) Program entry into the prospective rate system will be accomplished in the following manner: each facility shall be afforded the opportunity of securing reimbursement at prospective rates effective July 1, 1975. Each facility not choosing to receive reimbursement at the prospective rate as of July 1, 1975 shall receive reimbursement at the prospective rate effective July 1, 1976, and shall receive reimbursement for the period July 1, 1975 through June 30, 1976 at a program maximum payment of fifteen dollars (\$15) per day per patient for general intermediate care facilities and eighteen dollars (\$18) per day per patient or established Title XVIII-A cost rate for facilities providing intermediate care for the mentally retarded.

(14) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the department).

(15) The department may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the department to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(16) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. The department shall, under normal circumstances, be expected to determine the prospective rate and make notification to the facility within an additional sixty (60) days after actual receipt of the required documents. These time limits may be extended as necessary for the procuring of additional documentation, resolution of disputed facts, at the specific request of the facility (with the department's concurrence), and at such times as the rate review and appeal process is utilized by a facility and the determination and/or notification is held awaiting completion of that process.

Section 3. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost.

(2) The allowable prior year cost will then be increased by a percentage based on the percent of change in the Consumer Price Index. Such percentage increase shall be known as an inflation factor.

(3) The basic per diem cost (defined as the allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the department. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-five (95) percent of licensed bed days (or ninety-five (95) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of licensed bed days for facilities with less than ninety (90) percent licensed bed occupancy. The department may impose a lower occupancy rate for newly constructed or opened facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. Such reduction in the minimum occupancy rate, whether for a newly constructed or opened facility or for an existing facility, shall be granted for not more than one (1) year or for such lesser time as may be required for the facility to reach the minimum occupancy rate.

(4) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to non-profit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(Continued)

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 7-1-75 through 12-31-77)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$14.99 & below*	—	—
\$15.00 - 15.99	\$1.05	.66
\$16.00 - 16.99	.99	.58
\$17.00 - 17.99	.92	.48
\$18.00 - 18.99	.83	.37
\$19.00 - 19.99	.73	.24
\$20.00 - 20.99	.61	.10
\$21.00 - 21.99	.43	—

Maximum Payment \$22.00

* For a basic per diem of \$14.99 and below, the Investment Factor shall be 7.5 percent, but the return may not exceed \$1.05, and the Incentive Factor shall be 5.0 percent, but the return may not exceed \$.66. For example, a return based on a basic per diem cost of \$14.50 would be computed as follows: $\$14.50 \times 7.5\% = \1.09 which would be adjusted downward to \$1.05; $\$14.50 \times 5.0\% = \$.73$ which would be adjusted downward to \$.66.

(b) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 1-1-78)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$16.99 & below*	—	—
\$17.00 - 17.99	\$1.18	.74
\$18.00 - 18.99	1.11	.65
\$19.00 - 19.99	1.02	.54
\$20.00 - 20.99	.92	.41
\$21.00 - 21.99	.81	.27
\$22.00 - 22.99	.67	.11
\$23.00 - 23.99	.47	—

Maximum Payment \$24.00

* For a basic per diem of \$16.99 and below, the Investment Amount will be equal to 7.5 percent, but not to exceed \$1.18 and the Incentive Amount will be equal to 5 percent, but not to exceed \$.74.

(c) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 7-1-75 through 12-31-77)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$20.99 & below*	—	—
\$21.00 - 21.99	\$1.45	.91
\$22.00 - 22.99	1.35	.79
\$23.00 - 23.99	1.23	.65
\$24.00 - 24.99	1.10	.49
\$25.00 - 25.99	.96	.32
\$26.00 - 26.99	.79	.13
\$27.00 - 27.99	.55	—
\$28.00 and over	—	—

Maximum Payment \$70.00

* For a basic per diem of \$20.99 and below, the Investment Amount will be equal to 7.5 percent, but not to exceed \$1.45 and the Incentive Amount will be equal to 5 percent, but not to exceed \$.91.

(d) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 1-1-78)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$22.99 & below*	—	—
\$23.00 - 24.99	\$1.45	.91
\$25.00 - 26.99	1.35	.79
\$27.00 - 28.99	1.23	.65
\$29.00 - 30.99	1.10	.49
\$31.00 - 32.99	.96	.32
\$33.00 - 34.99	.79	.13
\$35.00 and over	—	—

Maximum Payment \$75.00

* For a basic per diem of \$22.99 and below, the Investment Amount will be equal to 7.5 percent, but not to exceed \$1.45 and the Incentive Amount will be equal to 5 percent, but not to exceed \$.91.

(5) The prospective rate is then compared with the maximum payment. This shall be twenty-two dollars (\$22) per patient per day for routine services for the period 7/1/75 through 12/31/77, and twenty-four dollars (\$24) per patient per day for routine services for the period beginning 1/1/78 for general intermediate care facilities; and seventy dollars (\$70) per patient per day for routine services for the period 7/1/75 through 12/31/77, and seventy-five dollars (\$75) per patient per day for routine services for the period beginning 1/1/78 for intermediate care facilities for the mentally retarded. If in excess of twenty-two dollars (\$22) or twenty-four dollars (\$24), or seventy dollars (\$70) or seventy-five dollars (\$75), as applicable, the prospective rate shall be reduced to the appropriate maximum payment amount.

Section 4. Rate Review and Appeal. Participating facilities may appeal departmental decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division for Medical Assistance, a re-evaluation of the point at issue. This request must be received within twenty (20) days following notification of the prospective rate by the program. The director shall review the matter and notify the facility of any action to be taken by the department (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Bureau for Social Insurance, a review by a standing review panel to be established by the commissioner. This request must be received within fifteen (15) days following notification of the decision of the Director, Division for Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division for Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Center for Program Development, Bureau for Social Insurance. The panel shall meet to consider the issue within fifteen (15) days after receipt of the written request, and shall issue a binding decision on the issue within five (5) days of the hearing of the issue. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the department's expense.

Section 5. Definitions. For purposes of this regulation, the following definitions shall prevail unless the specific context dictates otherwise:

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the department in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of intermediate care facility services and the cost incurred by the facility is within cost limits established by the department; i.e., the allowable cost is "reasonable."

(2) "Amounts which would have been paid under Title XVIII-A" means the statewide average amounts theoretically payable under Title XVIII-A principles at the time the department's cost related payment system is implemented. Included within this definition is the recognition by the department that actual vendor expenditures for allowable costs vary according to the reimbursement system utilized, and that an after the fact determination of amounts payable under Title XVIII-A principles would not be valid.

(3) "Ancillary services" means those direct services for which a separate charge is customarily made. Ancillary services are limited to the following:

- (a) Legend drugs.
- (b) Drugs (legend or non-legend) provided through a "unit dosage" system.
- (c) Physical, occupational and speech therapy.
- (d) Laboratory procedures.
- (e) X-ray.
- (f) Oxygen and other related oxygen supplies.
- (g) Psychological and psychiatric therapy (IC/MR only).

(4) "Inflation factor" means the comparison of allowable prior year routine service costs with an inflation rate to arrive at projected current year cost increases, which when added to allowable prior year costs yields projected current year allowable costs.

(5) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to ar-

rive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(6) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(7) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(8) "Maximum payment" means the maximum amount the department will reimburse, on a facility basis, for routine services.

(9) "Occupancy factor" means the comparison of the occupancy rate with projected current year costs to arrive at basic per diem cost for routine services.

(10) "Prospective rate" means a payment rate of return for routine services based on prior year costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the department.

(11) "Reasonable cost related basis" means the payment to the facility shall be based on the reasonable cost experienced by the facility, and that such reimbursement may include amounts to encourage investment and the availability of services, and to reward cost containment and efficiency.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, paper tissues, water pitchers, basins, bed pans, deodorants, and mouthwashes.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, band-aids, non-legend antacids, aspirin (and other non-legend drugs ordinarily kept on hand), suppositories and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing an intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services; including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs, effective with any facility fiscal year ending after December 1, 1978.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services.

GAIL S. HUECKER, Commissioner
PETER D. CONN, Secretary

ADOPTED: December 4, 1978

RECEIVED BY LRC: January 11, 1979 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, DHR Building, 275
East Main Street, Frankfort, Kentucky 40601.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of January 3, 1979 Meeting

(Subject to subcommittee approval at its next meeting on February 7, 1979.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, January 3, 1979, at 10 a.m., in Room 327 of the Capitol. The minutes of the December 6 meeting were approved. Present were:

Members: Representative William T. Brinkley, Chairman; and Representative Albert Robinson.

Guests: Pam Johnson, Kentucky Retirement Systems; Dr. J. W. Holladay, Board of Dentistry; Connie Hauser, Board of Physical Therapy; Doug Shoulders, Department of Transportation; Larry W. Potter, Department of Labor; Russell Groves, James R. Smith, Eugene Perkins and Janet Green, Department of Housing, Buildings and Construction; Conley Manning and Steve B. Marcum, Department of Education; Lynn Mitchell and Ron Camic, Department for Human Resources; Bill Cownie, Home Builders Association of Kentucky; John D. Hinkle, Kentucky Retail Federation.

Press: James P. Dady, Kentucky Post.

LRC Staff: Mabel D. Robertson, Deborah Herd, Susan Martin, Joe Hood and Steve Armbrust.

The following regulations were deferred until the February 7, 1979 meeting:

KENTUCKY EMPLOYEES RETIREMENT SYSTEM**General Rules**

105 KAR 1:010. Contributions and interest rates.

DEPARTMENT OF FINANCE**Division of Occupations and Professions****Board of Dentistry**

201 KAR 8:140. Continuing education compliance.

201 KAR 8:285. Hygienist's continuing education points for license renewal.

DEPARTMENT OF EDUCATION**Bureau of Administration and Finance****Buildings and Grounds**

702 KAR 4:060. Construction criteria.

**DEPARTMENT OF HOUSING,
BUILDINGS AND CONSTRUCTION****Energy Conservation and Efficiency**

815 KAR 50:010. New building construction energy code.

DEPARTMENT FOR HUMAN RESOURCES**Bureau for Social Services****Child Welfare**

905 KAR 1:131. Design and construction of juvenile detention centers.

905 KAR 1:133. Operation of juvenile detention facilities.

The following regulation was accepted tentatively, upon motion of Representative Robinson, seconded by Chairman Brinkley; provided the department will amend to apply to only students in Kentucky's common schools:

DEPARTMENT OF EDUCATION**Bureau of Instruction****Instructional Services**

704 KAR 3:310. Requirements for high school diploma.

On motion of Representative Robinson, seconded by Chairman Brinkley, the following regulations were approved and ordered filed:

DEPARTMENT OF FINANCE**Division of Occupations and Professions****Board of Physical Therapy**

201 KAR 22:040. License renewal.

DEPARTMENT OF JUSTICE**Bureau of State Police****Polygraph**

502 KAR 20:030. Trainees.

DEPARTMENT OF TRANSPORTATION**Bureau of Vehicle Regulation****Division of Water Enforcement**

601 KAR 25:030. Registration decal.

DEPARTMENT OF LABOR**Occupational Safety and Health**

803 KAR 2:020. Adoption of 29 CFR Part 1910.

803 KAR 2:032. Adoption of 29 CFR Part 1928.

ALCOHOLIC BEVERAGE CONTROL BOARD**Licensing**

804 KAR 4:125. Certain premises not to be licensed for malt beverage sales.

**DEPARTMENT OF HOUSING,
BUILDINGS AND CONSTRUCTION****Plumbing**

815 KAR 20:100. Joints and connections.

The meeting was adjourned at 12:30 p.m., to meet again on February 7, 1979, in Room 327 of the Capitol.